

township." The provisions for the forming, altering or dissolving of an existing school section will be found in section 43 and following sections of the Act. It is to be observed that sub-section 7 of section 26 has no reference to the *dissolving* of such a union school section as you mention, and we are of opinion that, as the law is at present, your council cannot legally accomplish what you state they desire to do.

Parties Floating Logs Liable for Damage to Bridge on Stream.

112—G. E.—It is necessary to rebuild a bridge over a mill stream which crosses a public road. The present bridge is twenty feet between the piers. It would be cheaper to rebuild to have only sixteen feet between piers, and would answer every public purpose. The owner of the mill below the bridge runs logs through under said bridge, and has notified the council not to rebuild less than twenty feet between piers, and wants glance piers erected, says if bridge is injured in any way by logs will not be answerable. Is a municipal council obliged to build bridges to suit lumbermen or sawmillers, or to erect glance booms or piers to protect said bridges from injury when driving saw logs.

The municipal council is obliged to build such a bridge at this point as will best suit the safety and convenience of the public requiring to use the same for purposes of travel. If parties floating logs or timber down the stream do damage to a bridge, we are of the opinion that they will render themselves liable for such damage. The council is certainly not bound to do what the mill owners seem to think they have the right to require.

Illegal Letting of Contracts by Reeve.

113—C. N. McD.—Is it legal for a reeve of a township to post up notices, stating that he is going to let contracts for two bridges, before the appropriations for roads and bridges are passed by the council for the year 1901? Where does he get his authority for going on with such work? Has the council a voice in the matter? We want some light on this subject.

Unless the reeve has been appointed commissioner for this purpose by the council, or has been authorized by resolution of the council to let these contracts, he has no legal right to do so, and cannot bind the corporation by so doing.

Parties to the Award Should Participate in the Cost.

114—J. M. D.—By way of further explanation of Question No. 95, in issue for February, 1901: A claims that when the basin (1) filled in the spring before he opened ditch (3) that the natural flow of the overflow for some weeks in the spring, afterwards the basin would absorb it, was through an old culvert on the road larger than the present one, thence onto B's farm, over which it flowed without hindrance until B put in a covered drain (5) too small to take all the water at the end of which he placed a bank damming back the water until the drain would take it. Would his covered drain come under the Ditches and Watercourses' Act, and compel A to pay part of the cost of enlarging? Would the above statements make any difference in your answer?

The question you submitted is one that can be settled only by the engineer for your township, employed under the provisions of the Ditches and Watercourses Act, in his award made after

proceedings have been initiated under the Act or by the county judge on appeal from such award. If B's tile are laid in the course which the engineer provides in his award, should be followed by the drain, and are sufficient in dimensions for B's drainage purposes, and the bringing down of water from the lands of A and probably other lands, would necessitate the enlargement of B's tile, A and the other owners of land above B, parties to the award, should proportionately pay the cost of such enlargement.

Repair of Roads in Sparsely Settled Locality.

115—J. W.—In this township, as in the adjoining townships, the land is rough, stony, rocky and hilly, diversified by marshes, creeks, rivers and lakes. As a consequence, the country is sparsely settled by a people who are unable by their statute labor to make new roads and repair old ones. The Ontario government have frequently given grants of money to assist in making roads, but this money, like the statute labor, has to be made go a long way, and frequently holes are found near the wagon track, which the road maker had dug to cover up rocks where it was impossible to plow or grade in the usual way, or stones have been dug out and rolled to one side, or stumps are left near the track. In a country like what I describe, where it is almost impossible to keep the main wagon track in a passable condition for driving, would a council be liable for damages by teams running against stumps, stones or into holes? Or what width would a road require to be free of such obstructions to free a council of liabilities in a rough country?

The general rule is that a council of a municipal corporation, in order to escape liability for damages in cases of accidents happening on roads under their jurisdiction, must keep and maintain such roads in a reasonably safe condition for travel, taking into consideration the topographical nature of the locality, the requirements of the settlers and the means at the command of the council, to be devoted to this purpose. To illustrate, the law does not require the same degree of excellence on roads in such a locality as you describe as in a level and well-settled district, free from boulders and rock. Keeping the above in view, your council should keep their roads in the best state of repair that the circumstance will permit.

Right to Manufacture Acetylene Gas by Private Individual, and to Lay Down Gas Mains.

116 SUBSCRIBER.—1. Is it necessary for a municipal council to pass a by-law to allow a private individual to lay down gas mains on the streets of a village, or would motion of council be sufficient?

2. If by-law is necessary, could both be put in one by-law?

1 and 2. Sub-section 3 of section 566 of the Municipal Act, empowers the council of a village to pass by-laws for authorizing any gas or water company to lay down pipes or conduits for the conveyance of water or gas under streets or public squares, subject to such regulations as the council see fit. It will be observed that the power given is to be exercised in favor of a company. We are, therefore, of the opinion that the council has no power to grant such an easement in the highway to an individual.

Road Laid Out Through Unpatented Lands—Assessment of Dredges, Scows, Etc.—Local Improvements Under Section 678, Municipal Act.

117—G. G. A. By by-law No 16, for A. D. 1867, the township council established a road or highway, which crosses portions of two township lots. I presume these lots had not at the time of the passing of the by-law been granted by the Crown, as a Crown Patent or Grant was issued recently to a farmer. I also presume the by-law was legally passed, in so far as complying with all the requirements of the law as to notices, etc. The grantee now claims that the township council had no power to establish the highway on these lots, that the grant to him overrides any by-law of the council, and he now demands that the highway be closed up, so that he may possess the land.

1. Is the highway legally established, or rather can the municipality legally hold or maintain the highway as against the grantee?

2. Is the grantee entitled to any compensation for the portion of township lots expropriated for the highway?

There are three dredges laid up in the harbor at this town, with the accompanying scows, cranes, etc., being the property of private persons and companies, engaged in work under government contracts. I cannot find this kind of property exempt under 7 (29) or other sections of The Assessment Act.

3. Are these dredges, scows, cranes and other personal property used in the harbor works, owned by the private persons or companies, liable to assessment and taxation by this municipality?

4. If not, kindly refer me to the authorities on the subject.

The council of this town intend constructing sidewalks on some of the principal streets, and to levy a portion of the cost thereof on the private lands abutting on such streets. I experience a difficulty in interpreting the Local Improvement sections 624 686, of The Municipal Act. The council has not adopted the Local Improvement system. I desire to know:

5. If the local improvements to be carried out under section 678 can be initiated under any one of the three methods provided for by sections 668 (1) to (2) and 669; and can the municipal council, acting under section 678, pass by-laws in the short form under section 670, and (3) hold Courts of Revision to hear complaints, etc. In short, is all the procedure given in sections 628 to 686, applicable to, or available for, improvements to be carried out under section 678?

1. At page 472 of the fourth edition of Harrison's Municipal Law the following statement is made. "In this respect 50, Geo. III., chap. 1., altered the law, and it would now seem that if once a road acquires the legal character of a highway, by reason of the original survey or otherwise, it is out of the power of the crown, by grant of the soil and freehold thereof to a private person, to deprive the public of their right to use the road. See *The Queen vs. the Bishop of Huron*, 8 U. C. C. P., 253; *the Queen vs. Hunt*, 16, U. C. C. P., 143; S. C., 17 U. C. C. P., 443." We have examined these cases and we do not think they support the law as laid down above. In the case of *Rae vs. Trim*, 27 Gant's Chancery Reports, p. 374, a case heard before Vice-Chancellor Blake, the head note reads: "A by-law passed by a municipal corporation cannot have the effect of taking any lands of the crown in addition to those appropriated by the crown for the purpose of highways in order to the opening up of the country. Neither can parties on crown lands before patent issued dedicate any