

or keeper cannot be found. In this case there is strong evidence that the owners or keepers of the dogs that did the damage are known, and the council should not pay the owner of the sheep killed until he has proceeded against the owner of the dogs, and on the conviction of the offenders, he has been unable to levy the amount ordered to be paid, for want of sufficient distress. (See section 17 of the Act.) A township is not responsible for and should not pay a claim of this kind when the owner of the dog doing the damage is known, only under the circumstances mentioned in section 17 of the Act. Nor is there in the published reports any decision of the courts to the effect that a township is so responsible.

2. It is optional with the council as to whether they make any move in this matter or not. If there is a House of Refuge in your county, these people should be removed there, where they would be comfortable and well cared for. Sub-section 2 of section 588 of the Municipal Act empowers township councils to pass by-laws granting out-of-door relief to the resident poor, and clause (a) of sub-section 1 enables them to take a conveyance of or security upon the property of indigents to whom they have made advances by way of charity or relief, but a council is not bound to take advantage of the provisions of this section.

Safe Keeping of Moneys of Municipalities.

133—CLERK.—Was there any legislation passed at the last session of the local legislature of Ontario compelling treasurers of township municipalities to make a deposit in some chartered Bank, approved of by the council as security for the money they (the treasurers) handle for the township? The article in the MUNICIPAL WORLD on this subject does not say there was.

No, but sub-section 5 of section 291 of the Municipal Act provides that "the Treasurer shall open an account in the name of the municipality in such of the chartered Banks of Canada or at such other place of deposit as may be approved of by the Council, and shall deposit to the credit of the such account all moneys received by him."

Qualification of School Trustees in Muskoka—Of Members of Local Board of Health

134—W. C.—1. Does the Act making it illegal for school trustees to become councillors apply to the District of Muskoka?

2. If no protest is entered against their election within the time appointed by law can they retain their seats and are their acts legal?

3. Is a member of the township Board of Health eligible for the office of councillor?

1. Members of a School Board for which rates are levied are disqualified as candidates for membership of the council of an organized township in the District of Muskoka as well as elsewhere in Ontario. (See section 5 of chapter 29 of the Ontario statutes, 1902.)

2. Yes.

3. Although the Municipal Act does not in specific terms disqualify a member

of a Local Board of Health as a candidate for membership of the council of the municipality, still, in order to avoid all difficulties and complications, we have hitherto advised, and do now advise, the resignation of a member of a Local Board of Health, intending to be a candidate for councillor before nomination day, as a matter of precaution.

Assessment of Telegraph and Telephone Poles and Wires.

135—W. L.—1. Are telegraph and telephone poles and wire occupying the public highways liable to be assessed?

2. If so, how would you get at the proper valuation to assess them?

1. and 2. Sub-section 3 of section 18 of the Assessment Act, as enacted by section 1 of chapter 31 of the Ontario statutes, 1902, provides that "the rails, ties, poles, wires, etc., sub-structures and super-structures upon the streets, roads, highways, etc., and other public places of the municipality belonging to such companies (that is the companies mentioned in sub-section 2, which include telegraph and telephone companies) shall be "land" within the meaning of the Assessment Act, and shall when and so long as in actual use be assessed at their actual cash value, as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises, in and from the municipality, and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting their value, etc." In a recent appeal against their respective assessments in the city of Toronto by the Toronto Railway, Bell Telephone and other Companies, to a board of County Judges, composed of Judges McDougall, McGibbon and McCrimmon, this legislation was upheld and explained. In the course of their judgment, these Judges remarked that "looking to the whole history of the legislation, it is reasonably plain that, with the exception as to rolling stock, it was intended to make the outside plant of the companies named liable to assessment at its cash value, and to remove the alleged injustice of the "scrap-iron" method of valuation. This judgment will be found reported on page 183 of THE MUNICIPAL WORLD for 1902, November issue.

Council not Bound to Accept Resignation of Disqualified Councillor.

136—W. D. M.—I thank you for the prompt reply to my letter of the 24th, re qualification of councillor, who is a public school trustee. Since the questions were asked, however, the said councillor has sent in his resignation as a member of council, to me. Had he not done so the course of the council would have been quite clear from your answer. We would now like to know how to act in the matter. Would the council be justified, knowing the reason for his resignation, to refuse to accept, and thus save the trouble and expense of a new election?

It is optional with the other members of the council as to whether they accept this member's resignation or not. They will be justified in refusing to accept it, if they deem this course the best, under the circumstances. If, however, proceedings

should be taken against him, he can disclaim the seat and in that event the candidate, if any, having the next highest number of votes will be entitled to the seat, but if there was no other candidate a new election will be necessary.

Contents of By-law Prohibiting the Running at Large of Cattle.

137—M. M.—Our township voted on the question of prohibiting all kinds of stock from running at large on the public highway and it was carried by quite a majority. Now is it necessary for us as a council in passing a by-law to mention in that by-law what the penalties shall be, or are they fixed by statute, also the manner in which any person has to proceed in order to make a conviction?

The council had no authority to submit a by-law of this kind to the vote of the electors, and it was an improper thing to do. Section 546 of the Municipal Act gives councils of townships power to pass by-laws of this kind of their own motion, if they see fit to do so. In framing the by-law, your council should provide for inflicting reasonable fines and penalties, not exceeding \$50 and costs, for breach of the by-law as provided in sub-section 1 of section 702 of the Act, and for enforcing payment of the fine inflicted as provided in sub-sections 2 and 3 of section 702. The by-law should not make any provision as to the procedure when a prosecution is instituted for its breach, as the statutes already do that. (See section 704 and following sections of the Act.)

Separation of Township From County.

138—W. H.—Our municipality is composed of three townships H. C. and M. We have belonged to the county of R up to the time of the last redistribution of constituencies for the House of Commons took place, then we were separated from R and attached to the district of N and at the last redistribution for the Ontario House, we were placed in East N, so that we vote in N for both houses of Parliament. Now it is evidently the intention of the county council of R to still hold us in their county for municipal purposes which would be taxation without representation. Can they do so and what course, in your opinion, should we take to effect the change?

Should the county council refuse to let us go quietly would we be justified in ignoring them if they ask for a copy of our assessment roll or ask us to pay county rates?

Until your municipality succeeds in prevailing upon the Provincial Parliament to pass legislation removing it from the County of R. and adding it to the District of N. for MUNICIPAL purposes, its council and their officials must conform to and carry out, and obey the requirements of the statutes, in the same manner and to the same extent as any other municipality in the County of R. It would, in the meantime, be in no way justified in neglecting or refusing to furnish the copy of its assessment roll as and when it is required by law, or to levy, collect, and pay over to the county its proportionate share of the county rate—the municipality is not being taxed without representation—as it forms part of constituencies which elect members to both the Federal and Provincial Parliaments, and is represented