

4. The statute makes no provision in terms providing for the passing of a by-law entirely abolishing the payment of commutation of statute labor. If in this case it was desired to accomplish this, a by-law should have been passed repealing the by-law commuting statute labor and subsequently passing one entirely abolishing it.

5. Whether the by-law abolishing statute labor is good or bad, no money can be collected under it.

#### Voters' List for By-Law Vote—When Assessment Roll Finally Revised.

458—J. R.—This township votes on a by-law granting a large sum of money to electric railway on June 21st. The Court of Revision was held on June 7. In your answer to question No. 429 you state that the clerk is to prepare a list from the *then last revised assessment roll*. In our case what list will have to be taken or what roll will I have to use—1903 or 1904?

2. If there are no appeals to the Judge will I not have to use the 1904 roll?

3. Our village has police trustees, but are not incorporated, and have taken over the statute labor, sidewalks, etc. Can we collect poll tax from tenants and others that are of age who are not ratepayers?

1. The voters' list to be prepared under section 348 of The Consolidated Municipal Act, 1903, to be used at the taking of this vote must be based on the assessment roll for 1903, as the assessment roll for 1904 cannot be considered to be finally revised until the 6th July, 1904, after the date fixed for the taking of the vote. Section 3 of the Act provides that "for the purposes of this Act an assessment roll shall be understood to be finally revised when it has been so revised by the Court of Revision for the municipality, or by the Judge of the County Court in case of an appeal as provided in The Assessment Act, or when the time within which the appeal may be made has elapsed."

2. No. This is not allowable for the reasons given in our answer to question number one.

3. We assume that the council of the township in which this police village is located has passed a by-law commuting statute labor therein, and allowed the police village the benefit of the amount paid in this way in making the agreement with the trustees referred to in section 740 of The Consolidated Municipal Act, 1903. We do not know what is meant by the "taking over" of sidewalks, etc., by the police trustees. They may let contracts for the making of sidewalks, etc., pursuant to section 741 of the Act, but the liability for accidents caused by their non-repair would be the township's, since the police trustees are not incorporated under section 751 of the Act. The police trustees cannot collect the tax mentioned in section 100 of The Assessment Act. The township council through its collector only has such power. Section 97 of The Assessment Act does not apply to a case of this kind.

#### Secretary-Treasurer of School Section May be Collector of Taxes—Assessment of Doctor's Income.

459—J. D.—1. One of the school trustees in our public school is secretary-treasurer for the school board, and has been appointed collector of taxes for the village. Is this irregular?

2. Our medical doctor has been assessed for income same as men have been who are working on salary. His only income is from his professional services. What amount of this is exempt?

1. We see no objection to an appointment of this kind.

2. Sub-section 26 of section 7 of The Assessment Act (as amended by section 3 of chapter 21 of The Ontario Statutes, 1903,) provides that "the annual income of any person derived from his personal earnings to the amount of \$1,000 and the annual income of any

person to the amount of \$400 derived from any source other than personal earnings" shall be exempt from taxation. The assessor should make his assessment in this case in accordance with the above provisions.

#### Township Clerk May be License Inspector.

460—G. B.—Can a township clerk be also a license inspector under The Liquor License Act (R. S. O., chapter 245)?

Yes.

#### Obstruction of Government Road.

461—S. A. F.—In the District of Parry Sound some twenty years ago the Government built a road through our township. It does not take a straight course. A farmer recently had some surveying done by a P. L. S., who set his corner stake within ten feet of the centre of the road. The farmer is now putting up a fence from this stake straight across his farm. The fence will sometimes be in the ditch and other times touching the roadbed?

1. Can our council claim 33 feet from the centre of the roadbed?

2. Must he leave his fence crooked all along 33 feet from the centre of this roadbed, providing the roadbed is in the same place as first made by the Government?

3. What course in the interest of the public would you advise us to take in this matter?

1, 2 and 3. This road having been built by the Government was probably surveyed, and its location and limits ascertained and defined by a surveyor in the employ of the Government, prior to its construction. Field notes or particulars of the survey by the Government employee are likely to be found in the office of the Commissioner of Crown Lands, Toronto. The Commissioner should be communicated with, with a view to definitely locating this road, and when this is done the council should take proceedings to cause the removal of all fences erected thereon.

#### Liability for Accident Caused by Stone on Highway.

462—D. McD.—The county council built a steel bridge on the townline between the Townships of A. and B., letting the contract for furnishing the material and building the abutments to C., who finished the contract and it was accepted and passed by the county bridge inspector. C., the county contractor, left some of the quarry stone by the side of the road for over a year, about 140 feet from the bridge. A funeral procession was proceeding along the road and D.'s horse got frightened at the stone and broke the buggy and harness and injured the man. D. and his wife threatened to take an action against the municipal councils of A. and B. and notified them accordingly. A. and B., after considerable parleying with D., settled the case with him on what they considered reasonable terms.

1. Can the councils of A. and B. recover from the county council the amount they paid to D., as C. was, as we think, an employee of the county council, also after the accident one of the county commissioners removed the stone off the roadside and paid a party for it?

2. Did the township council do right in settling with D., or should the township council have defended the action in the courts and brought in the county council as one of the defendants?

1. No. This was a voluntary payment on the part of the councils of A. and B. without the request of the council of the county, and the former have no right of action to recover the amount from the latter.

2. If the councils of A. and B. considered or were advised that the county corporation was liable, under the circumstance of the case, for the amount of the damages sustained by D., they should not have settled with D. without the concurrence of the council of the county. If the council of the county refused to become a consenting party to the settlement, the councils of A. and B. should have defended an action brought against them by D., and had the county municipality joined as a party to the action, as provided in section 609 of The Consolidated Municipal Act, 1903.