

or private property, but not if the obstruction accidentally fell into the stream for then a by-law of the kind in question can have no application.

#### Restraint of Gypsies—Duties of Medical Health Officer.

**463**—R. B. C.—1. Has a municipal council power to pass a by-law prohibiting gypsies or any persons camping on or near the public highway and what sections of the statutes refer to the matter?

2. Is the Medical Health Officer of a municipality compelled to visit houses, at the close of the year, where there had been cases of small-pox about nine or ten months' previous, in order to report to the Provincial Board of Health about these cases? The municipality applied to the Provincial Board of Health to send a physician to treat any cases of small-pox in the municipality, which was done at a considerable expense during the months of February and March. Will the Provincial Doctor's report with reference to these cases be sufficient to send to the Provincial Board of Health without incurring more expense by the Medical Health Officer visiting the houses at the end of the year in order to make another report?

1. There is no provision in the statutes directed especially against gypsies, but no person has any right to obstruct the public highway, and may be indicted and punished for so doing. By sub-section 6 of section 549 of the Municipal Act, councils of townships are empowered to pass by-laws for restraining and punishing *vagrants* and mendicants, etc.

2. By section 31 of the Public Health Act, (R. S. O., 1897, chapter 248), municipal councils are authorized to appoint medical health officers and to fix their salaries. Part of the duty of the medical health officer is to report annually to the local board as to health and sanitary conditions in the municipality, which report is to be embodied in the report which the secretary of the local board of health is required to send to the Provincial Board of Health annually. See section 60 of the Act. A medical health officer must be presumed to know his duties when he accepts the office. He should report on small-pox as well as other health conditions in his municipality and if in order to enable him to do so, it should be necessary that he visit the houses in which the infected persons had been, it is his duty to visit and inspect these houses.

#### Fees of Constable—Repeal of Local Option By-Law.

**464**—Councillor—Last February we appointed a constable for our village. There is a by-law in force giving the constable 50c. on each conviction made. In July he made an arrest and the party was fined and let go. The constable got some of his clothes torn, now he wants pay for them. Can he collect it? He is not under pay only what he gets from an arrest.

2. We have a Local Option by-law in our village. The last vote was taken on the first Monday of January, 1900. Can we take a vote on it on or before the same date in 1903 or can we take a vote say on 1st January, 1903, or have we to wait until the three years are expired before we can take the vote or can the council of the present year grant the vote and appoint day for taking same?

1. There is no provision made for the payment of a constable for a loss of this kind.

2. We assume that a local option by-law was submitted to the electors on the first Monday in January, 1900, and carried by them, that it has been in force in the municipality ever since, and that you desire to know whether a by-law repealing the above can be submitted to the electors prior to the expiration of three years from the above date. Sub-section 2 of section 141 of the Liquor License Act (R.S.O. 1897, chapter 245) provides that "no by-law passed under the provisions of this section shall be repealed by the council passing the same, until AFTER the expiration of THREE years from its coming into force etc. It is not stated at what date this by-law came into force, but it would be some day after the first Monday in January 1900. No by-law, having for its object the repeal of this local option by-law, can be legally introduced, submitted to the electors, or finally passed by council at any time PRIOR to the expiration of three years from the day the by-law came into force. This year's council cannot legally deal with the matter.

#### Effect of By-law Changing Date for Making Assessment.

**465**—J. H. B.—We have been assessing and did this year (1902) make our assessment from February 15th to April 30th, and from assessment so made, the taxes have been collected and the voters list made. We decided to change the time of making the assessment from July 1st. to September 30th. as provided by section 58 of the Assessment Act and passed a by-law appointing assessors and made another assessment which we propose to adopt for 1903. Does the Assessment Act, section 58, sub-section 4, give the Council the option of making a new assessment or are they compelled to adopt the assessment made in February and have it revised?

We are of the opinion that it is optional with the council either to have a new assessment made or to adopt the assessment already made. The council is not bound to adopt the assessment already made.

#### Duties of Clerk and Collector as to Collector's Roll.

**466**—Y 1902.—Is the Collector's roll completed without the different rates being extended into the "total column"? As tax collector I said the clerk ought to extend the different amounts into total column but he says it is my duty. I want your opinion, quoting authority.

It is no part of the duty of a collector to add up the several rates charged against the parties on his roll and enter the totals in the proper column. This is essentially the duty of the clerk before he delivers his roll to the collector, and the clerk has not completed his roll until he has done this. The only entries a collector is authorized to make on his roll are the date of making the demand or serving the notice mentioned in section 134 of the Assessment Act, and the date of the payment of the taxes.

#### These Places Own Their Own Electric Lighting Plants.

**467**—G. L. G.—Will you kindly give me a small list of places that have adopted municipal lighting and as far as you know with what success, also please say what you would think of our village adopting it. We have an assessment of about \$200,000, we pay now \$400 to have our town lighted. The company who have been doing the lighting is giving it up as they must purchase a new dynamo and do not feel disposed to do it.

The following is a list of places you require with their respective populations:

	POPULATION.
Markham.....	1000
Teeswater.....	925
Thessalon.....	869
Beeton.....	707
Bothwell.....	924
Weston.....	893
Dundalk.....	642

Your village is similarly circumstanced to those above enumerated and they all seem to be well satisfied with their experiment in municipal lighting. We see no reason why it would not be a desirable and profitable institution in your village.

#### Assessor Should not be Appointed Treasurer.

**468**—G. C.—The question has been asked me if it is legal for a person to hold the office of assessor and treasurer as well? I refer to Revised Statutes 1897 where it plainly states that the treasurer shall not be appointed assessor. Have not noticed any amendments to that section. If there are any please mention. Our treasurer has resigned and the assessor was appointed in his place. The question was asked the clerk if he, the assessor could legally hold both offices.

The latter part of sub-section 1 of section 295 of the Municipal Act provides that a council shall not appoint as assessor the treasurer of the municipality, and therefore the assessor should have resigned his office of assessor before his appointment as treasurer for he cannot hold both offices.

#### Damages for Injury to Land by Drainage Works Under Legislation of 1902.

**469**—Inquirer.—An engineer, in his report on a drainage scheme, allowed A a certain sum as damages for injury to his lands by reason of the construction of the drainage works, instead of carrying the drain to a point where the discharge of water would do no injury to his lands under section 8a of the Drainage Act, (enacted by section 1 of chapter 32 Ontario Statutes, 1902.) A is of opinion that the sum allowed him by the engineer is not enough. He did not appeal to the Court of Revision held on the drainage by-law, nor did the matter come before that court.

1. Can A now appeal to the drainage referee against the engineer's report?

2. Had A appealed to the court of revision could that court have increased or reduced the amount allowed him for damages by the engineer and altered the amounts assessed against the lands charged with the cost of construction of the drainage works, to the extent that such increase or reduction would have rendered necessary?

1. We call attention to the fact that section 8a is added by section 1 of the Municipal Drainage Amendment Act, 1902, to the Drainage Act, as a separate and distinct