

town being a part of the county, should the town or the county improve the streets and sidewalks bordering on the county property or should the municipalities undertake the work jointly. Please give legal phase of this question as well as also the practice of the municipalities of the province generally?

We assume that the court house and goal of the county are the buildings referred to. By sub-section 5 of section 7 of the Assessment Act these buildings are exempted from assessment and taxation, nor are they, or the land on which they stand, liable to be taxed under the local improvement clauses of the Municipal Acts. The streets and sidewalks thereon in the vicinity of and around the county buildings, should be maintained and kept in repair by, and at the general expense of the municipality within whose limits they are located. (See also section 679 of the Municipal Act.)

Secretary of School Board in Unorganized Township Should not be Assessor.

367—A. B. C.—Secretary has been appointed by School Board in an unorganized township as assessor, said secretary holding both offices; he also being convener of Revision Court. Can he legally sit in said court or will the board have to call in another secretary from another section?

2. What is the best to do in such a case?

1 and 2. The secretary of the school board should not have been appointed its assessor. The two offices are incompatible and should not be held by the same person. By sub-section 1 of section 26 of the Public Schools Act, 1901, courts for the revision and correction of school assessment rolls in unorganized townships are to be composed of the secretary-treasurers of all school boards in the unorganized townships and a secretary-treasurer of a school board could not sit as a member of a Court of Revision to revise and correct his own work as assessor of a school section. Sub-section 2 of section 27 requires the return of the assessment roll by the assessor to the secretary-treasurer of the school section. A person in his capacity as assessor could not very well make a return to himself in his capacity as secretary-treasurer of the school section. The school board should appoint some competent person other than its secretary-treasurer, to make this assessment and otherwise proceed as required by sections 16 and 27 of the Act.

Sale of Land for Taxes When No Seizure Made by Collector.

368—J. M.—Can land be sold for arrears of taxes when there was as much crop on the land each year as would have paid the taxes if the collector had sold it? The taxes of 1902 being paid and if the taxes of this year 1903 be paid when due, can that land be sold for taxes due before 1902?

The law is that if there are chattels out of which the taxes might have been made by the collector and by reason of negligence on the part of the collector in making the taxes out of such chattels they are not made, they cannot be returned against the lands.

Village Council Can Purchase Land for Park Purposes, But Not for Exhibition Grounds.

369—J. B.—Our village is in need of a public park or grounds on which games may be played and to hold our fall fair. Can the council purchase the ground and issue debentures to pay for it without submitting the by-law to a vote of the ratepayers?

Sub-section 1 of section 576 of the Municipal Act empowers the councils of villages to pass by-laws "for entering upon, taking and using and acquiring so much real property as may be required for the use of the corporation for PUBLIC PARKS, etc., and the assent of the duly qualified electors of the municipality is not a necessary preliminary to the passing of a by-law of this kind, unless the amount to be paid for the land acquired for the purpose is not to be paid within the municipal year in which it is acquired. In this case the by-law should receive the assent of the electors as provided by sub-section 1 of section 389 of the Act. A village council is not authorized to purchase lands for EXHIBITION purposes, as are councils of cities and towns by sub-section 3 of section 576, but by sub-section 3 of section 45 of chapter 43, R. S. O., 1897, any municipality owning lands for public purposes may make agreements with any agricultural association for the use of such lands, etc.

Council Cannot Purchase Dumping Ground.

370—C. A. P.—Our council are desirous of purchasing a piece of land either in the municipality or outside to be used for the purpose of depositing the garbage from the village and burying dead animals. Have they power to acquire such lands for the purpose.

No.

Proper Person to Examine and Let Drains—Auditors Duties—Rule as to Passing of By-Laws Restraining Cattle From Running at Large—Witness to Will Cannot Take as Beneficiary.

371—J. M.—1. Who is the proper person to examine and let government drains in the township where a by-law is made under the Act?

2. If the township is threatened by a law suit about a government drain not having a proper outlet, is it not the reeve's place to examine the drain?

3. If township funds are put into a bank, should not the interest coming to the township be properly audited by the township auditors?

4. How many readings should a by-law have by the council in passing to have it legal?

5. Are pigs and sheep allowed to run at large on the road, and if damage is done by them who is responsible?

6. A party makes a will and in witnessing the testators signature after it is read over and explained. The conveyancer is a disinterested person and signed the will as a witness. The other witness was one of the legatees son of the party making the will. All the property was left to the family divided. Is such will legal, or stand good the first witness could swear that there was no undue influence caused or made in the signer of the will? If the family, which is the other legatee, was all agreeable to this party who signed the will as a witness, to get his part, would not the will be all right.

1. From the way this case is stated we cannot infer that these drainage works are being or were constructed by the Government, or with money loaned by the Government to the municipality for the

purpose, but that the work was undertaken under the provisions of the Municipal Drainage Act (R. S. O., chapter 226). Assuming that this is the case, the person whom the council considers competent for the purpose, and appoints to let the work, whether he is a duly qualified engineer or not, is the proper person to do it.

2. It is the duty of the COUNCIL to consider what is the best course to pursue when a lawsuit is threatened, and if the members think that it would be to the advantage of the municipality to have the reeve examine the drain, they can instruct him to do so and report to them. We refer you to sections 73, 74 and 75 of the Drainage Act.

3. Yes.

4. This altogether depends upon the rules of order (if any) adopted by the council. If the council has adopted a rule of order requiring a by-law to be read one, two or three times before it is finally passed, the procedure laid down by the rule of order should be followed. If there is no rule of order regulating this matter a simple resolution of the council that the by-law be passed is all that is required.

5. Yes. Unless a by-law has been passed by the council pursuant to sub-section 2 of section 546 of the Municipal Act, restraining and regulating their running at large. The owners of any animals running at large are responsible for any damage they may commit.

6. The fact that one of the witnesses to the signature of the testator is a beneficiary under the will does not render it invalid, but disentitles the beneficiary who signed as a witness to take anything under the will. If all the legal heirs of the testator are sui juris and are willing to allow the legatee who signed the will to take his share out of the estate there is nothing to prevent them doing so.

Liability in Small-Pox Case.

372—A. M.—In 1901 the medical health officer of the township of A discovered what he said was a case of small-pox in a resident family of the township. The patient was duly isolated and directions left that if any more of the family shewed the same symptoms the medical health officer was to be notified. In a few days a young woman in the family shewed the same symptoms and the medical health officer was duly notified, when the latter paid another visit. Three visits in all were made. About the end of the year 1901 the medical health officer put his bill in to the council for services rendered in the above case. The council paid the account. This year there are some new members on the council board and they have recently sent an account of \$40 to the man who was said to have small-pox in 1901 for the services of the medical health officer above referred to. The medical health officer has never been the family doctor and lives about ten miles distant. Can the council recover the amount of \$40 from the then small-pox patient?

If the salary of the medical health officer did not include the account paid to him in this case, and it is reasonable, we cannot see why the person liable for the support of the patient should not pay to the