

them. Kindly let me know what steps should be taken to collect said tax?

The collector for the municipality has authority to collect this tax at the same time and with like authority as the other taxes payable by ratepayers in the municipality. If the party liable has sufficient goods and chattels not exempt from seizure, the collector can realize the amount by distress and sale of a sufficient portion of such goods and chattels. If the collector fails to collect the amount, "he shall report the same under oath to any justice of the peace, and such justice shall, by an order under his hand and seal, to be served by any duly qualified constable, require the dogs to be destroyed by the owners, or by a constable, and for the purpose of carrying out the said order, any constable may enter upon the premises of the owner of the dog ordered to be destroyed, and destroy such dog." See section 6 of chapter 271 (R. S. O. 1897).

#### Compelling Removal of Fences from Road Allowances.

**398**—J. B.—In our township there are a number of fences on the road allowance, making the road narrower than it should be and in the winter time making travel difficult on account of snow drifts.

1. Would it be legal to pass a by-law that a person whose fence was in the road allowance after being notified by the township clerk to remove such fence within ten days, and such fence not removed, to bring him before a Justice of the Peace and have him fined five dollars and costs?

2. If such by-law would be illegal, would you suggest a remedy.

1 and 2. If these fences have been placed upon the road allowance by their respective owners, the council of the township has authority to pass a by-law, pursuant to sub-sections 3 and 4 of section 557 of the Municipal Act, providing for their removal at the expense of the parties who placed them there, if such parties fail to remove the fences for five days after receiving notice to do so, or the offenders may be indicted for maintaining a nuisance on the highway, or an action may be brought to restrain them from continuing the fence upon the highway. A township council has no authority to pass a by-law of the kind mentioned.

#### Illegal Grant to Telephone Company.

**399**—J. B.—Has a municipal council the right of giving, say \$100.00 to a Committee formed to buy the poles to connect two villages in the same township, being considered as local improvements? Wires and apparatus to be put up by the Bell Telephone Co., which will then be their property.

We are of opinion that a township council has no authority to make a grant of the kind mentioned.

#### Proceedings to Compel Removal of Fences from Highway.

**400**—C. W. R.—In our township we have a side road, C living on west side of it, D on the east side. Their fences were both put up 25 or 30 years ago with about 1 rod of a bow in the centre leading to the surveyor's stake at both ends of lot. C has straightened his, not interfering with the road bed as the road is not graded.

1. Can C legally move his fence?

2. If so, what steps should council take to make D move his fence back to get road right width?

1. It is not stated whether straightening this fence involved the moving of a part of it on to the road allowance, or the removal of a part of it from the road allowance to C's land. If the former C has no authority to place any part of his fence on the allowance for road, and if the latter is the case, he has a perfect right to erect the fence on his own land.

2. If D's fence is now on the road allowance, the mere fact that it has been so placed for 25 or 30 years, does not give him the right to keep it there and he can be compelled to remove it, by by-law of the council, passed pursuant to sub-sections 3 and 4 of section 557 of the Municipal Act, if he erected the fence himself, or caused it to be erected on the highway—or he may be indicted for maintaining a nuisance on the highway, if he neglects or refuses to remove the fence on receiving reasonable notice to do so. If, on the contrary, all the fence is now standing on D's land, he cannot be compelled to remove any part of it, or straighten it with the line of the road.

#### Assessment of Dogs.

**401**—SUBSCRIBER—1. A was assessed for a dog; he appeals to the Court of Revision held May 26th of same year to have said dog struck off the roll on the ground that said dog had been killed. Was the Court justified in striking said dog off the roll?

2. B was also assessed for a bitch. He also appeals to the Court to have it struck off the roll on the ground that he gave the bitch to a man in an adjoining municipality. C was also assessed for a dog; he also appeals to the Court on the ground that he had sold the dog to a man in an adjoining municipality. The Court having no evidence in the last two appeals, that the dogs had been assessed in the adjoining municipality, or had been killed, was the Court justified in striking the last two off the roll? The Court being satisfied that if either of said dogs came back in their township and damaged sheep, that the council would have to pay the cost.

1. No.

2. It was the duty of the assessor to assess the dog and bitch, and they were properly assessed if they were the property of the parties at the time of the assessment, and the Court of Revision had no right to strike them off the assessment roll. Their duty is to correct errors made by the assessor. In these cases he made no error.

#### Witness Who Cannot Read—Under Twenty-One—Deed is Binding.

**402**—K. M.—1. Can a man who cannot read act as a witness in a contract or deed, etc.?

2. Can a person under twenty-one (above seventeen to twenty) act as a witness in the same case?

3. B is under twenty-one years of age (twenty). A sells land to B. B pays A in cash for it. A gives a clear deed of the land to B. Is this deed good, as good as if B was over twenty-one years of age?

1. Yes, but a witness of this kind is not at all satisfactory or desirable.

2. Yes.

3. The deed is binding in so far as A is concerned, but may be repudiated by B within a reasonable time after he becomes of age.

#### One Bank, the Better Plan.

**403**—R. M.—Is it lawful for a municipality to divide their money in two banks?

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." This provision does not prohibit the opening of an account in the name of the municipality in more than one chartered bank, but we are of opinion that it would be unwise for a council to instruct their treasurer to do this, as it would entail more labor on the treasurer and would most likely lead to trouble and confusion.

#### Should be Inserted in Part I.

**404**—F. J. S.—Please let me know in what part of Voters List, Farmer's Sons, M. F. should be placed, Part I or Part III?

Assuming that these farmer's sons possessed the qualification mentioned in sub-section 1 of section 86 (fourthly) of the Municipal Act, they are entitled to vote at municipal elections. The letters "M. F." after their names indicate that they are qualified to vote at Legislative elections also, therefore, their names should be inserted in part 1 of the Voter's List. (See section 6 of chapter 7, R. S. O., 1897.)

#### Sidewalk Assessment.

**405**—VILLAGE CLERK.—Our corporation has constructed granolithic side-walks on several streets. The town pays 75 per cent and the property owners pay 25 per cent of the cost of construction. The walks will be extended to several other streets this summer.

1. How are the property owners who are now paying 25 per cent to be assessed for future sidewalks?

2. Do property owners contribute to the general rate to pay the 75 per cent. when said property owners are paying the 25 per cent?

1. Sub-section 1 of section 680 of the Consolidated Municipal Act, 1903, provides that any real property, specially assessed by any council for any local improvement or work under the Act, shall be exempted by the council upon the value of the land only and not of the improvements thereon from any general rate or assessment for the like purposes, except the cost of works at the intersection of streets and except such portion of the general rate as may be imposed to meet the cost of like works opposite real property which is exempt from such special assessment."

2. No. Only to the extent mentioned in our answer to question No 1.

#### Power to Remove Gate Across Street.

**406**—W. H. C.—I send you a diagram enclosed. The owners of the property marked X