

to any person injured by reason of the occurrence of an accident on its portion of the townline, unless it is closed according to law. Your township council cannot, alone, close this townline.

3. We see no reason why the council cannot repeal the by-law. If that is done, chapter 271, of the R. S. O., 1897, will, upon the passing of such by law, come into operation.

Payment of Damages for Sheep Killed Where no Dog-Tax Collected—Authority to Kill Dog Worrying Sheep—Owner of dog Must pay Damages for Sheep Killed.

329—F. H. G.—1. In district of Rainy River a certain municipality has no dog-tax. Are the council held responsible for sheep killed by dogs?

2. The dog was caught in the act of killing the sheep. Can the owner of the sheep follow that dog home and shoot him without first consulting owner of dog? The dog was shot at the owner's house.

3. Is the man who owned the dog held responsible for sheep killed after the sheep owner has killed his dog?

4. Can any action be taken against the man who shot the dog without first getting permission, to recover remuneration for dog?

1. If the council passed a by-law under the authority of section 2, of chap. 271, R. S. O., 1897, or under section 8, the municipality is not liable, but in the absence of any such by-law chap. 271 is in force in the municipality, and we do not think that the neglect to collect the tax will afford an answer to a claim made for damages caused by dogs to sheep. See section 18, of the Act.

2. Yes. See clauses (a & c) of section 9, of the above Act.

3. Yes. The killing of the dog is no compensation for the damages the owner of the sheep has sustained.

4. The man who shot the dog is not liable in damages to the owner of the dog for having killed it under the circumstances you mention. If the owner of the dog enters an action against him, he can plead not guilty by statute, as provided in section 10, of the Act.

Qualification of Pathmaster—Allowance of Statute Labor for Shovelling Snow.

330—D. D.—1. Is a pathmaster who accepts his road list from the clerk, legally pathmaster, when he declines to sign the declaration of office?

2. Is it legal for the clerk to enter in the collector's roll the statute labor of those who refuse to work under this pathmaster?

3. In the year 1901 all the statute labor on a certain road division was performed in the early part of the summer. When the winter snow drifts filled the road the people were warned out to shovel snow. Now some of those who shovelled snow refuse to perform their statute labor for 1902, claiming that the work performed in the winter should exempt them from statute labor for 1902. Can they legally claim such exemption?

1. The statute labor list should not have been delivered to this pathmaster by the clerk until he had made the declaration of office required by section 312, of the Municipal Act. His refusal to make the declaration was equivalent to a refusal to accept the office, and the council should have appointed another

person to have acted in his stead. Since however, this man has received the list, and undertaken the performance of the duties of the office, his failure to make the declaration of office does not, *ipso facto*, render void his official acts done in the meantime. (See *Lewis vs. Brady*, 17, O. R., 377.)

2. Yes. These parties were aware, or should have been aware, that they had a certain amount of statute labor to perform, and the neglect or misconduct of the pathmaster in charge of their road division was no excuse for its non-performance.

3. It is not stated whether the council passed a by-law pursuant to sub-section 3, of section 537, of the Municipal Act. If it did, and these parties shovelled snow upon the order, and under the pathmasters thereby appointed, they should be allowed for such work in their next season's statute labor.

Closing of Street for Railway Company.

331—SUBSCRIBER—The railway company are trying to get our council to close up a street for them. Kindly tell me all the legal proceedings necessary and also what means must be taken to oppose it. Can any rate-payer or property holder object? How many is necessary to defeat it? Can council insist on closing street? Is there any appeal?

Section 637, of the Municipal Act, gives the council power to pass a by-law providing for the closing of this street, after the preliminary proceedings prescribed by section 632, of the Act, have first been taken. It is in the discretion of the council whether they close the street or not, and they should not pass a by-law doing so, if the convenience and requirements of the public would be thereby prejudiced. If, in closing the road, any person or persons would be excluded from ingress and egress to and from his or their premises, the road cannot be closed unless the council, in addition to compensation, provides for the use of such person or persons some other convenient road or way of access to his or their premises.

Duties of Bailiff When Seizing for Taxes.

332—H. G. T.—A collector of taxes for a township issues his warrant, and sends his bailiff to collect taxes from a party in default. The bailiff has to travel from his own dwelling (which is in the adjoining township) fifteen miles, or from the dwelling of the collector twelve miles, to the dwelling or office of the party in default. The bailiff makes a seizure, but before the matter goes any further the defaulter says he will pay his taxes (say sixty dollars) and does so with costs.

1. How much in this case are the costs? which the bailiff is by law authorized to collect?

2. What is "Enforcing a warrant?"

3. What is the proper way to make a seizure?

4. Has the bailiff to lay his hand on the article he seizes, or can he legally seize without touching the article?

5. If the bailiff does not seize, but collects the amount of taxes is he entitled to his commission of three per cent. or not?

6. If a bailiff has two or more warrants to collect from different persons who live near each other, is he entitled to full mileage? (that is from his own home or the home of the

collector) in each case? As I understand the law, if a bailiff makes a seizure, he is paid so much for it. He gets fees for making out an inventory and for appraising and putting up notices of sale, and if he is entitled to three per cent., is he entitled to collect three per cent. if he does not make a seizure, and if not, why not? What is the allowance of three per cent for?

1. If the amount of taxes in this case is over twenty dollars, but not over sixty dollars, and the taxes were paid after seizure and before sale of the goods, the bailiff is entitled to the following fees: Enforcing warrant, 75c.; mileage, twelve miles, at 12c. per mile, \$1.44; schedule of property seized, 50c.; and three per cent. on the amount of taxes paid.

2. "Enforcing a warrant," means and includes all the steps necessary to be taken by the bailiff in order to effect a seizure of the goods and make the money.

3. The bailiff can enter, take actual possession of the whole or that part of the goods necessary to be seized and sold to satisfy the amount named in the warrant, in the name of all such goods, or he may intimate to the owner and party liable for payment, the fact that he intends to, and has seized the goods, and serve the owner with an inventory of the goods seized, and intended to be sold.

4. It is not essential to a valid seizure that the bailiff should lay his hands on, or actually take possession of all or any of the goods intended to be seized. An intimation by the bailiff to the owner and party liable for payment, of his intention to seize, and the service by the bailiff upon such owner of an inventory of the goods seized and intended to be sold to satisfy the warrant, is sufficient.

5 No.

6. The bailiff is entitled to mileage from the office of the collector to the place where the warrant is to be executed, at the rate of twelve cents per mile. He can collect only for the number of miles NECESSARILY travelled in order to execute a warrant. If he has warrants to collect from a number of persons residing near each other, he is entitled to mileage from the collector's office to the residence of the person on whom he first calls, thence mileage to the next one, and so on until he has exhausted the list. It must be borne in mind that the bailiff must, in going to execute these warrants, travel by the shortest route, as he is only entitled to mileage for the number of miles he actually and necessarily travels in order to do the work. If the bailiff sells the goods seized he is entitled to five per cent. on the amount realized, not three per cent. He is entitled to the latter commission if the claim is settled after seizure and before sale of the goods. If no seizure is made the bailiff is not entitled to any percentage. This percentage is allowed to the bailiff as additional pay for his care and trouble in realizing the amount of the claim placed in his hands for collection.