

the price or damage to be paid to any person for such timber or materials, shall, if not agreed upon by the parties concerned, be settled by arbitration under the provisions of the Act". (See section 437 and following sections of the Act).

#### Collection of Taxes

**399**—J.W.—A, who is a non-resident, was assessed in 1901 as owner of a house and two lots in this town, and B was also assessed for same as tenant. In September of same year A sold said property to C who took possession, the tenant moving out, but not leaving the town. C, after occupying the property till February 1902 removes the house off same to a lot in another part of the town and sells the vacant lots on which it had stood to D who now owns them. The taxes for 1901 on the original house and lots have not been paid and all the parties concerned disclaim responsibility. Now who should pay these taxes? To whom shall the collector look for the taxes of 1901?

We should have definite information as to whether the collector's roll for 1901 has been returned by the collector or not. We however, infer that it has not, and frame our answer on this understanding. Sub-section 1 of section 135 of the Assessment Act provides that if taxes are not paid within fourteen days after demand made or service of notice effected by the collector (as the case may be), the collector may by himself or by his agent, levy the same with costs by distress "upon the goods and chattels *wherever found within the county in which the local municipality lies*, belonging to or in the possession of the person who is *actually assessed for the premises*, and whose name appears upon the collector's roll for the year as liable therefor." Neither C nor D is personally responsible for payment of these taxes to the municipality, as neither of them was "assessed" for the premises in 1901. A and B being both assessed for these premises in that year are liable for the payment of these taxes. If the collector cannot find goods or chattels (not exempt from seizure for taxes) in the county within which your municipality is located, out of which to realize by distress the amount of these taxes or a portion thereof, he should return the amount, or the balance remaining unpaid to the municipal treasurer, as required by section 147 of the Act against the lands in respect of which they are chargeable, and these lands should in due time be sold by the county treasurer to realize the amount. (See section 173 of the Act.)

#### Service of Notice on Parties Complaining to Court of Revision.

**400**—W. H. C.—In your letter you state that the Appellant to Court of Revision did not require to be served with such notice. Sec. 71 of the Assessment Act states that the clerk shall serve notices on parties making appeal. How shall I reconcile these?

We see no difficulty in reconciling our answer as to the necessity for service of notices of the holding of a Court of Revision upon *parties filing an appeal* with the clerk, and the statutory enactments in that regard, for the reason that the

latter contain no such provision as stated. Sub-section 3 of section 71 of the Assessment Act provides that "if a municipal elector thinks that any person has been assessed too low or too high, or has been wrongfully inserted in or omitted from the Roll" he may give notice in writing to the clerk of the municipality and the clerk shall give to such person (that is the person complained against) the notice mentioned in this sub-section. Sub-section 9 provides that the clerk shall prepare a notice in the form following for *each person with respect to whom a complaint has been made*: The service of a notice of the time and place of the sittings of a Court of Revision or of a notice similar to that set forth in sub-section 9 upon the person filing an appeal is not required by the statute, and would be unnecessary and useless. The party filing notice of appeal knows that an appeal in which he is interested, is pending before the Court of Revision, having filed it himself, and it is his duty to inform himself as to the date of the holding of the Court. The person whose assessment is appealed against is not in this position and he would have no knowledge of the filing of the appeal against his assessment or opportunity to defend himself, if the statute did not require service upon him of the notice mentioned in sub-sections 3 and 9 of sec 71.

#### Liability for loss of Horse.—Separate School Supporters' Liability for Debenture Rate.

**401**—SUBSCRIBER.—One of our ratepayer's horses was injured and died from wounds received in the following manner. He sent a boy about fourteen years old to a neighbor with the horse, returning a horse rake he had borrowed, and on leaving the neighbor's he was closing the gate when the horse walked away from him and went about 120 feet and then lay down and rolled on a culvert and accidentally rolled over end of culvert and got one leg fastened in sewer pipe which had a sharp edge, and cut her so she bled to death. There is a railing along each end of culvert but this railing has only one pole on top. The space between ground and top pole of railing where the mare went over is about three feet six inches. She rolled under railing or top pole. At the end of culvert where mare went over there is a drop of about four feet on a hard stone bottom. Are we as a township, liable for the value of the mare?

2. About six years ago a union school section was formed part off our township. They issued debentures to pay for building new school. A certain farm was in the new section for the first two or three years when debentures were issued. The last four years this farm has joined a Roman Catholic Separate school, at least the tenant has put it in there. The debenture tax was paid for two or three years but last four years the debenture tax has not been paid. Can the debenture tax that has not been paid for four years be collected yet, and what steps will have to be taken to collect them and to get the debenture tax in future collected every year? The tenant in the lease has to pay the taxes.

1. No.

2. By the expression "this farm has joined a Roman Catholic Separate School, etc.," we presume you mean that the tenant has given the notice mentioned in sub-section 1, of section 42 of the Separate

Schools Act. (R. S. O. 1897, chapter 294.) Assuming that this is the case the property is still liable for payment of its share of the debenture rate for building the new school house if the rate imposed, therefore, was so imposed before the *establishment* of the Separate school to the support of which the tenant is a contributory. (See sub-section 5 of this section.) If this debenture rate was imposed AFTER this Separate school was established the tenant is not liable for the payment thereof, after he has given the notice required by sub-section 1 of this section. In any event we are of opinion that the portion of the debenture rate, which might be payable in respect of these lands and which for the past four years, the municipality has neglected to collect, is not now collectable for this reason: It is the duty of the collector to collect all the taxes on the collector's roll each year, if there are any goods to be found belonging to the person liable to pay the taxes, and if not, it is his duty to make his return accordingly and when that is done, the taxes can be returned against the lands of the person liable and such lands or a competent part thereof may be sold to make such taxes and if there are no lands a suit may be brought to recover them. But it is imperative that the course which we have pointed out be taken in order to make the lands liable for the taxes.

#### Requisites of Trustee's Application for School Moneys.

**402**—C.B.—As the trustees of rural school sections send in their requisitions yearly to the councils to levy moneys for school purposes the secretaries of the sections sometimes send in the requisition with only their own names to the requisition and sometimes with stamp and sometimes without it. Is the council justified in levying on this authority or does it require to have the trustees sign it or at least a majority of them?

By sub-section 9 of section 65 of the Public Schools Act 1901, it is the duty of the public school trustees to submit to the municipal council etc., an estimate of the expenses of the schools under their charge for the current year, and sub-section 1 of section 71 requires municipal councils to levy such sums as may be required by the trustees for school purposes. The requisition presented to the council for the levy of this amount should be signed by the members of the Board of Public School Trustees or a majority of them, or by the secretary and chairman and the school section seal affixed. The statute however, prescribes no particular form in which this requisition is to be made. The form generally used, being one which best meets the convenience of trustees and councils. If the requisition be not signed as above, the council would not be justified in refusing to make the levy. If the trustees or a majority of them instruct their secretary to make a requisition upon the council for a certain amount required to defray the expenses of carrying on the school, or if the secretary waits, with such requisition upon the council, we think that is sufficient.