

Appeals from Court of Revision.

Sub-section 19, of section 71, of the assessment act (subject to the provisions in the said sub-section enumerated,) makes it incumbent on all courts of revision to complete their duties, and finally revise the assessment rolls before the 1st day of July in every year.

Sub-section 1, of section 75, of the assessment act providing for an appeal to the county judge from a court of revision, has been repealed by section 6 of the assessment amendment act, 1899, and the following sub-section substituted therefor: (1) An appeal to the county judge shall be at the instance of the municipal corporation, or at the instance of the assessor, or assessment commissioner, or at the instance of any ratepayer of the municipality, not only against a decision of the court of revision on an appeal to the said court, but also against the omission, neglect or refusal of the said court to hear or decide an appeal. Their right of appeal can only exist by statute, and in initiating and prosecuting such appeal the provisions of the statute in regard thereto should be strictly followed. Sub-section 2, of said section 75, (subject to the provisions therein mentioned,) enacts that "the person appealing shall, in person or by his solicitor or agent, serve upon the clerk of the municipality, (or assessment commissioner, if any there be,) a *written* notice of his intention to appeal to the county judge, within *five days* from the day in the said act limited for the closing of the court of revision, that is, the 1st day of July in every year. Sub-section 3, of said section 75, requires the clerk, immediately after the time limited for filing such appeals, to forward a list of same to the judge. The latter shall then notify the clerk of the day he appoints for the hearing, and fix a place for the purpose. The clerk is to give notice to all persons appealed against in the same manner as notice is given on a complaint to a court of revision. In case he fails to do so, the judge may direct service to be made for some subsequent day. The clerk shall cause a conspicuous notice to be posted up, either in his office, or in the place where the municipal council sits, containing the names of all appellants and persons appealed against, a brief statement of the ground of appeal, and the date on which the judge will hear the appeals. The clerk of the municipality shall be clerk of the court. The judge may adjourn the hearing of the appeals, or suspend his judgment thereon from time to time; but all the appeals must be decided before the 1st day of August.

Subpoenas to compel the attendance of necessary witnesses shall be issued out of the county court of the county in which the municipality is situated. The person having the custody of the assessment roll shall produce the same, and all papers and documents relating to the matter of the appeal before the judge. If a decision is given at the hearing, the roll is altered and amended in accordance therewith and

initialled by the judge. In case judgment is reserved, when it is handed down, the clerk of the court is required to alter and amend the roll accordingly, and write his name opposite each alteration or amendment. The powers of the judge sitting on an appeal from a court of revision are the same as he might exercise in the division or county court. The evidence to be given in such an appeal as is under discussion is not to be confined to that adduced before the court of revision, but any new or original matter relating to the subject may be introduced. The presiding judge has power to apportion costs amongst parties interested or concerned in the appeal, but such costs shall only be those of witnesses, and of procuring their attendance, taxed on the division court scale. Section 82 provides that the decision of the judge shall be final and conclusive. Section 84 gives the right to a person, partnership or corporation, assessed on one or more properties, to an amount aggregating \$20,000, to appeal from the court of revision to a board of judges, composed of the judges of the counties which constitute the county court district, if the property assessed be in a county forming part of such a district. In other cases the board is to consist of the judge of the county in which the assessed property lies, the judge of the county whose county town is nearest to the court house where the appeal is to be heard, and the judge of the county whose county town is next nearest to such court house. As a preliminary to such an appeal, the appellant is required to deposit \$75.00 with the clerk of the court, to pay the travelling expenses of the board or judge to be called. When three judges hear the appeal the decision of a majority of them shall prevail, subject to appeal to the court of appeal. Three or more judges of the court of appeal shall hear the matter brought before said court, and the decision of such judges or a majority of them, shall be final. Sub-section 2 of the last quoted section makes provision for similar appeals in any district or provisional county. By sub-section 1 of section 85, a county judge may, after his judgment in the case or matter, prepare a statement of the facts in the nature of a case on any question of general application, which has arisen under the act, or on any question which has arisen upon an appeal of a person, partnership or corporation assessed in one or more properties to an amount aggregating \$10,000, transmit the same to the Lieutenant-Governor-in-Council, who may state a case and refer it to a judge of the court of appeal. By sub-section 2 the Lieutenant-Governor-in-Council may, without the statement of the county judge, refer a case on any such question to a judge of the court of appeal, for a like opinion. The judge may, at any stage of the proceedings, refer the case to the full court of appeal. Section 58 enables the councils of cities, towns and villages, to pass by-laws for taking the assessment

between the 1st day of July and the 30th day of September in each year. In such case the time for closing the court of revision is the 15th day of November, and for final return by the judge of the county court, the 15th day of December. In cities having a population of 30,000 or more the assessment may be made between the 1st day of May and the 30th day of September.

Section 59 applies only to cities having a population of 100,000 or more. In case the council of such a city passes the by-law under said section mentioned, the time for appeals to the court of revision shall be within five days after the return of the roll, and the time for appeals to the county judge from the decision of the court of revision shall be within three days after the decision of the court of revision is given. The judge is required to complete his revision of the rolls for the city by the 20th day of October in each year.

LEGAL DECISIONS.

Regina vs. Levy.

Municipal Corporations—Police Commissioners—Second Hand Stores and Junk Shops—By-Law Prohibiting Dealing With Minors—R. S. O., Chap. 223., Section 484.

R. S. O. (1897), ch. 184, section 436, (R. S. O. ch. 223, section 484), which provides that, "The board of commissioners of police shall in cities license and regulate second-hand stores and junk stores," does not authorize a by-law to the effect that, "no keeper of a second-hand store and junk store shall receive, purchase or exchange any goods, articles or things from any person who appears to be under the age of eighteen years."

Such a by-law is bad, as partial and unequal in its operation as between different classes, and involving oppressive or gratuitous interference with the rights of those subject to it without reasonable justification.

Buchanan vs. Ingersoll Waterworks Co.

Water and Watercourses—Prescription—Riparian Rights—Artificial Channel.

About the end of the last century an artificial channel or water-race was built across a lot now owned by the plaintiffs, for the purpose of carrying water from a stream above the plaintiffs' land to a mill below, the water being diverted into the channel by means of a dam. The channel and the banks on either side of it formed part of the plaintiffs' land, having been excepted therefrom so that their land was not contiguous to the water. The defendants diverted the water and the plaintiffs were thereby deprived of the use of the same for watering their cattle.

Held, that the plaintiffs were not riparian proprietors and could not claim any right by prescription to the use of the water.

Decision by Rose, J., reversed.