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THE MUNICIPAL WORLD,

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ST. THOMAS MAY 1, 1903.

The councils of the townships of Sunnidale and Vespra recently passed resolutions requesting their member in the Local Legislature to use his influence in bringing about the taxation of railway property in the Province at its actual cash value.

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Mr. John McDonald, clerk of the village of Bolton, has been appointed clerk of the 4th division court of the county of Peel. Mr. McDonald is also secretary of the Public School and Library Boards and foreman of the Bolton "Enterprise" printing office.

* * *

Three by-laws were carried in the town of St. Marys on the 17th April last. One was to raise \$20,000 to construct permanent roadways, another to expend \$6,000 in extending the water services and electric lighting system, and a third for the election of two commissioners annually, who, with the mayor will constitute a Board of Management for the electric lighting and waterworks system.

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In a newspaper report of the proceedings of a township council, we notice the following resolution: "That the reeve of this council be, and he is appointed arbitrator for this council re the county roads," and by a similar resolution of another council, the clerk was appointed to act in this capacity. These proceedings are in contravention of section 457 of the Municipal Act which provides that "No MEMBER, officer or person in the employment of any corporation which is concerned or interested in any arbitration, nor any person so interested, shall be appointed or act as an arbitrator in any case of arbitration under this Act."

Post-Offices—Taxation of.

We are so often asked whether post-offices or the lands occupied or used therewith are taxable or not that we have considered it of sufficient importance to refer again to the statute law and decisions of the courts on the subject.

Section 7 of the Assessment Act declares that all property in the province shall be liable to taxation, subject to certain exemptions mentioned, and among those exemptions are the following:

1. "All property vested in or held by Her Majesty, or vested in any public body or body corporate, officer or person in trust for Her Majesty, or for the public uses of the Province; and also all property vested in or held by Her Majesty, or any other person or body corporate, in trust for, or for the use of any tribe or body of Indians, and either unoccupied or occupied by some person in an official capacity.

2. Where any property mentioned in the preceding clause is occupied by any person otherwise than in an official capacity, the occupant shall be assessed in respect thereof, but the property itself shall not be liable."

The first decision we find on the meaning or effect of the above exemption clauses is *Shaw vs. Shaw*, 12 U. C. C. P., p. 456. In that case certain goods were distrained for taxes and an action of replevin was brought to recover them and the owner of the goods pleaded that the land, house and premises during the years 1855, 1856, 1857 and 1858 were vested in and held by Her Majesty, and for the public uses of this Province for a term of years ending on the 1st day of April, 1859, and were occupied by James Hopkins, in his official capacity as collector of the customs for the post of Kingston, and as the custom house of the post of Kingston and for the public uses of the Province, and not occupied by the said James Hopkins or by any person otherwise than in an official capacity, or occupied or owned by any private occupant and that the said land, house and premises were exempt from taxation during those four years. Mr. Justice Morrison in delivering the judgment of the court after referring to sub-sections 1 and 2 of section 9 of the Assessment Act, and which are the same as they are now said, "and by the 5th section the word 'property' is to be taken to include both real and personal property. It is therefore clear that the premises in question being held and vested in Her Majesty and for the public uses of the Province during the years 1856, 1857, 1858 and 1859 as set out in the plea they were not during those years liable to taxation; but it is contended that leasehold property so held is not exempt, or rather that the reversioner and the land is liable for the taxes assessed during the period it was so vested in Her Majesty; the statute enacts that all property (which includes leasehold) so held

or used shall be exempt. If it was intended that the landlord or reversioner should be liable for the taxes, or that the taxes should be a lien as here contended on the land and collectable at the termination of the lease to the Crown, the Legislature would have expressed such its intention as it has done in the second sub-section where it declares that if such property is occupied by any person other than in an official capacity, the occupant shall be assessed in respect thereof, but the property itself shall not be liable.

The next case on the subject is the *Principal Secretary for War vs. the corporation of the city of Toronto*, 22 U. C. Q. B., p. 551. The facts of this case were as follows: During the year 1862 certain premises situate on King street in St. George's ward, Toronto, were occupied by Her Majesty's troops, as barracks under and by virtue of a certain indenture of lease. The premises were assessed upon the assessment roll for the year 1862. In January, 1863, the collector called upon the commissariat officer in charge at Toronto, for the payment of \$150 taxes on said premises for the year 1862, said officer refusing to pay said taxes on the ground that the premises were not liable to taxation. In the lease there was a covenant by the commissariat officer to pay the taxes. Hon. Justice Adam Wilson in delivering the judgment of the court says at page 554: "The first case relating to the land on King street, is concluded by the judgment of our own court of Common Pleas, in *Shaw vs. Shaw*, (12 C. P. 456) unless the covenant by the lessee to pay "all taxes or assessments to which the said premises shall be liable" during the lease, can make any difference; but I think this engagement cannot be binding on the crown. The statute expressly exempts this property from liability to taxation; probably this would have been the law if no such provision had been made. The crown cannot be prejudiced in its rights by the acts of any of its officers." The next case on the subject is *Attorney General of Canada vs. the city of Montreal*, 13 S. C. R., p. 352. The facts of this case were that Her Majesty, by the government of the Dominion of Canada, occupied the property for which the taxes were claimed, in virtue of certain leases of such property for the militia department, upon which the department had the right to erect all rifle ranges necessary for rifle practice, and temporary sheds and tents which might be required. This was a lower Canadian case but the section under which the owners, though the crown, claimed exemption was substantially the same as the exempting clauses in force in this Province. It is section 2, cap. 4, C. S. L. C., and reads as follows:

"2. All property belonging to Her Majesty, or held in trust by any officer or party for the use of Her Majesty in what ever part of this Province the same is

(Continued on page 83.)