

might, however, appoint him to look after the work to see that it was properly done if it thought his services would be of value owing to his experience and knowledge of the kind of work to be done. It was quite competent for the council to appoint him inspector of the House of Industry.

Private Roads.

199—A. B. C.—A built a dock in lake twenty or twenty-five years ago? He opened road over his property from highway to dock. He closed road two or three years ago by fencing across it but road has been used since by parties who needed to use it. I own a fishery on lake shore and this road is the only available road to it. Has the municipality or public any right in said road? Can I use it?

No.

Stopping Up of Original Road Allowance.

200—L. W. F.—Have municipal councils power to close up and dispose of road allowances, where road crosses over bogs and hills, where it would be impossible to make a road fit for travel? Also give what information you can in regard to closing and disposing of road allowances.

Your municipality being a township, sub section 2 of section 660 of the Municipal Act gives your council power to pass by-laws for closing, stopping up and selling these road allowances, observing first the provisions of sections 632 of the Act. Before, however, a by-law of this kind can have any force, it must be approved by the judge of the district court of your district (Manitoulin). You should also see that your by-law does not transgress the provisions of section 629 of the Municipal Act.

Suing for Taxes.

201—C. I. H.—Can the municipal council of the township of H sue and collect taxes from any party owning property in said township but living in another part of the district of Algoma, and there is nothing on the property in said township that the collector could distrain for?

This party is a non-resident ratepayer, and assuming that he requested his name to be placed on the assessment roll, of your municipality, the land should first, in due course, be offered for sale to realize the amount of the taxes. If it cannot be realized in this way, the municipality can then sue the party liable pursuant to action 142 of the Assessment Act. An action cannot be brought for the taxes until all the special remedies provided by the Assessment Act for their recovery are exhausted.

Township Treasurer's Security.

202—C.—A, B and C are township treasurer's securities, under bond. A sells out and leaves the country. If B or C notifies reeve another must take A's place, would this relieve B or C if new security is not produced?

No.

Clerk's Salary.

203—E. N.—The clerk of our municipality was dismissed and I was appointed in his place, but in the resolution appointing me there was no mention of the amount of salary and no seal of the corporation attached to this resolution.

Can I be entitled to the amount paid the ex-clerk at the time of his retirement?

A resolution of the council was insufficient for your appointment. A by-law should have been passed. See section 325 of the Municipal Act, the latter part of which provides that the powers of the council shall be exercised by by-law, when not otherwise authorized or provided for.

Liability for Arrears of Taxes.

204—J. W.—Our collector for the year 1898 did not complete his duties by the 8th day of April, 1899, consequently the township treasurer did not transmit to the district treasurer the statement of uncollected taxes until May or June. A buys a lot from B shortly after the 8th of April, and requests the district treasurer to furnish him with the amount of the arrears of taxes against said lot. The district treasurer notified A that the arrears of taxes against said lot were a certain sum, said sum being the taxes of 1897 only. The statement of uncollected taxes for 1898 reached the district treasurer after this statement to A, and is charged against said lot. A now claims that he is not liable for the taxes of 1898, as he should have received a statement of the full amount of arrears against the lot from the district treasurer so he could have deducted it from the purchase money of said lot.

We are of the opinion that the lot in question is subject to the taxes for 1898, assuming that there were no chattels which the collector could seize to realize them.

Township's Borrowing Powers.

205—A. D. A.—We have, in our township, the Clergy Reserve Fund account and also a Special School Fund account, the funds of which I presume should not be applied to the general expense account of the township, but have been used to a certain extent. Now then, the question I ask is this: Instead of borrowing money from a bank to pay general expenses, etc., or accounts for roads and bridges, or instead of the council using parts of principal and interest of the two above funds for same purpose, would it be legal and proper and wise for the council to enact a by-law, giving itself power to borrow monies from either of the above-mentioned funds and to pay a certain rate of interest thereon to pay the expenses, etc., of the township? Would it be more advisable to do the latter than to go on as formerly and use monies without a by-law authorizing same?

The Clergy Reserve Fund must be dealt with in the manner provided by section 423 of the Municipal Act. See section 2 of chap. 34, R. S. O., 1897. You do not say what the source of the Special School Fund is but we think it can probably be dealt with in the manner provided by either section 423 or 424 of the Municipal Act. There is no authority for borrowing from either of these funds in the way suggested or to use them for other purposes.

Hiring of Conveyance for Small-Pox Patient.

206—P. F.—Can the health officer of a town compel a person, engaged in the livery business in the place, to rent him a horse and vehicle for the purpose of conveying a small-pox patient to the pest-house? This question is put on the presumption that the town does not own a patrol wagon, an ambulance or any such vehicle, that would be in control of the town authorities and also on the presumption that none of the persons engaged in such livery business would willingly rent the conveyance

to the health officer on the ground that it would injure his business.

No.

Assessor's Duties.

207—L. A.—We are in trouble in regard to our assessor. At the January meeting we appointed a new man as assessor. He accepted the office and went to the clerk and was sworn in and afterwards wished to resign. The reeve accepted his resignation. Majority of council went to old assessor and authorized him to go on and do assessing (did not think it necessary to call a special meeting of council to appoint and have him sworn in office) but appointed him and the clerk swore him in office at the regular February meeting of council, some three weeks after. Now what I want to know, is the assessing that he (the old assessor) did before the regular February meeting of council, legal or valid or would you recommend that he do all the assessing before the February regular meeting over again? He was assessing three or four weeks before duly appointed.

A majority of the council had no power to authorize the old assessor to go on and assess property. Until he was not only appointed by the council at a regular or special meeting but had also taken the oath required by section 312 of the Municipal Act, he has no right to enter upon his duties. If the requirements of the Municipal Act have been complied with, the work which he has done since then is regular and, so far as the work which he did before the February meeting is concerned, we do not think it is necessary to go over the ground again or to rewrite all the entries which he made. He can utilize what he has done and, if any person is dissatisfied with the assessment, he has his remedy by way of appeal. Suppose it had been the case of a collector instead of an assessor and the collector had collected some taxes, he certainly could keep the money collected by him and would not have to pay it back and recollect it.

Statute Labor Defaulter—Removal of Fences on Roads.

208—A. H. B.—1. When a man is not called out to perform his roadwork by the pathmaster and it has been returned by the pathmaster undone, and the clerk has charged it against the ratepayer on the collector's roll, can the municipality compel said ratepayer to pay the roadwork?

2. If they cannot collect off ratepayer, can they collect the same off pathmaster?

3. When a ratepayer has his fence on the road allowance and has been given six months' notice from the pathmaster in the beat where said fence is on, and does not comply with the notice, can he be compelled to move the fence?

4. Is the pathmaster's notice sufficient to make him remove the said fence?

1. We do not think the statute labor can be returned against this man's land because there never was any demand made upon him to do the work, and therefore there could be no default on his part. See section 110 of the Assessment Act.

2. In the absence of a by-law regulating the appointment and duties of pathmasters and providing penalties for neglect of such duties, we do not think that the municipality has any remedy against the pathmaster.

3. Yes.

4. Yes.