

4. If default is made in returning Schedule E to the assessor duly filled out, signed, and verified by declaration as required by section 18 of the Act, the defaulter is liable to the penalty mentioned in section 21 of the Act.

#### Assessment of Private Canal.

171—W. M. S.—A canal has been and is used for floating logs from a river to a lake. It was originally built by a lumber company, but whether the company is in existence now or not is uncertain. G., a supposed member of the company, is assessed for some of the lots through which the canal flows. The lots are assessed as farm lands. They have long since been cleared of timber. The canal passes through Indian land part of the way. The owner of the canal company or otherwise charges toll at the rate of 25 cents per 1000 feet when it is used by other lumber companies. The canal has never been taken into account in making up the assessment roll.

1. Is the canal assessable as property independently of the lots through which it passes? If so, what sections of the act govern its assessment?

2. Is it subject to a business tax and if so at what percentage?

1. We are of opinion that G., or whoever is the proper owner of the canal (which appears to be a private enterprise,) should be assessed for it, at its actual value, as required by section 36 of The Assessment Act, 1904. Under the authority of clause (e) of paragraph 7 of section 2 of the above Act the words "real property" used in section 36 include "all structures and fixtures erected or placed upon, in, over, under or affixed to any highway, road, street, lane or public place or WATER," and under clause (a) "land covered with water."

2. If G. makes a business of charging toll for the use of the canal, he should be assessed for the business assessment mentioned in clause (h) of sub-section 1 of section 10 of the above Act, calculated on the assessed value of the canal.

#### Duties of Assessor.

172—R. G.—I have been appointed assessor and being unable to walk easily have employed an assistant to help me in the work. Is there any legal objection to the validity of the assessment if my assistant goes into each house and asks for information, statistics, etc., while I remain outside and value the property? I cannot see any objection to this course either on the ground of expediency or on a legal ground?

We do not see that any objection can be taken to the making of the assessment in the manner stated. Of course, however, the assessor appointed by the council, must assume all responsibility for the correctness of the assessment.

#### Assessment of Income—Business Assessment of Banker.

173—P. S.—1. In chapter 36, Assessment Amendment Act 1906, page 365, commencing at 7th line from bottom of page it reads as follows: "And the income of any person derived from any investment or from moneys on deposit in any bank, etc.," there seems to be a wide difference of opinion with respect to the \$300 exemption on income, some claiming that where said income does not exceed \$300 it is exempt and that only the excess over and above \$300 can be assessed and taxed, others claim that income not exceeding \$300 is exempt, but if said income exceeds \$300, say \$350, then the whole \$350 will be assessed and pay taxes. The statute does not seem to me to be very clear on this matter. Please give me your opinion on above matter.

2. A. rents a building from B. which he uses for banking purposes. B. is assessed as owner of the building and A. as tenant. B. pays the taxes. Is A. not liable for business assessment at so much per cent of value of the premises in which bank does business.

1. Where the income of a householder or head of a family within the meaning of paragraph 19 of section 5 of The Assessment Act, 1904, as enacted by section 1 of chapter 36 of The Ontario Statutes, 1906, derived from deposits in a bank, etc., does not exceed \$300, and he is not in receipt of income from all sources exceeding \$300, this income is exempt from assessment and taxation. If, however, his income, under the circumstances above stated, exceeds \$300, the whole amount of his income is

assessable. If the recipient is not a householder or head of a family within the meaning of paragraph 19, no part of his income is exempt.

2. Under the circumstances stated we are of opinion that A is liable for the business assessment mentioned in clause (c) of sub-section 1 of section 10 of the above Act, calculated on the assessed value of the premises used and occupied by him in carrying on his business as a banker.

#### Prohibiting Pool and Billiard Rooms.

174—X. Y. Z.—1. Can a township council keep out billiard and pool rooms? If so how?

2. What bearing does section 486 A have on the matter with rural or township municipalities?

1. Sub-section 4 of section 583 of The Consolidated Municipal Act, 1903, empowers the councils of townships, etc., to pass by-laws "for licensing, regulating, and governing all persons who for hire or gain, directly or indirectly, keep, or have in their possession, or on their premises any billiard or bagatelle table, etc.," but neither this nor any other section of the statutes authorizes a township council to prohibit the conducting of a billiard or pool room in the municipality.

2. If the council has passed a by-law under the authority of sub-section 4 of section 583 of the Act, section 486a confers on the council the discretionary power of granting or refusing the license, as it sees fit, "and the council is not bound to state any reason for the granting or the refusing of any such license."

#### Council Cannot Refund Taxes on Premises Destroyed by Fire.

175—D. M.—Will you kindly tell me through the MUNICIPAL WORLD how the town council can legally refund part of the taxes to the fire sufferers. Last August the greater portion of the business places were burnt and we were paying a big tax on our business and on our buildings; they are both burnt and we are out of business. Now what we ask is for a twenty-five per cent rebate on building and business. The town solicitor tells them they cannot give a rebate on taxes. Kindly advise us what to do. I am a fire sufferer, I got a petition and had it signed by nearly all the fire sufferers and presented it to the council so they have put us off to see if they can give us a rebate. The town solicitor tells them that they cannot; is there not a way by which the council can give us a rebate legally. They are quite willing to, but they do not know how to do it to keep their books straight.

The only circumstances under which taxes can be remitted to ratepayers are those mentioned in sub-section 10 of section 112 of The Assessment Act, 1904, and this sub-section does not provide for relief in a case of this nature. The council has no authority to grant the relief asked, unless special legislation is obtained to enable it to do so, as was done in the case of the Ottawa fire some years ago.

#### Estimating Percentage of Votes Necessary to Carry Money By-Law.

176—J. E. A.—1. Will dead men whose names are on the list of 1906 count against a by-law voted on now?

2. Will parties who have disposed of their property since last assessment and have left the village count against a by-law voted on now?

1. We assume that the by-law is one that falls within the purview of either section 366 or section 366a of The Consolidated Municipal Act, 1903, and requires the assent of a certain proportionate part of the electors, or in the language used in these sections of the "ratepayers who were entitled to vote on the by-law." Therefore, we are of opinion that the names of dead men should not be taken into consideration in estimating the number of voters' entitled to vote on the by-law, who have supported it.