

thing to say that money borrowed by a council without the safeguards imposed by the statutes may not be recoverable by the lender. It is quite another thing to say that a municipality having so borrowed money and expended it for the benefit of the ratepayers is to be restrained from being honest enough to pay it back. This is what the plaintiffs invite us to say in the present action, and I am clear we should refuse to say it."

3. No. It will be sufficient to satisfy the purchaser of these debentures that they have been issued pursuant to a by-law which has received the assent of the electors of the municipality and which authorized their issue to pay this debt of the municipality.

4. Yes, and a recital of this nature should be inserted in the by-law, so that the electors will have full information as to its objects, when recording their votes.

Assessment of Standing Timber.

446—J. G.—A sold the timber standing on his property to B. and received payment in full for same. B. was given three years to remove the timber off the property they signed an agreement which is registered. Nothing is mentioned as to who should pay the taxes.

1. Should A. be assessed for all the property or should A. and B. both be assessed as joint owners?

2. In the case of A. and B. being assessed as joint owners and B. should appeal to the Court of Revision, and the court should sustain the assessment, is it your opinion that he would win if he appealed to the county judge?

1. A. should be assessed for all this property. The assessor or Court of Revision has nothing to do with any bargain or bargains A. may have made for the sale of any timber standing thereon.

2. Yes, if his case is properly presented to the County Judge on the hearing of the appeal.

Opening Road Allowance.

447—M. H.—We have a man living on lot 13, on the 11th concession of W. L. The front of his lot has about fifty acres of a very bad swamp on it, and the side road runs along the west side of it, but never was opened. He has a road on the north end of side road to get out and a good road on concession all along the front of his farm but he lives on the back end of the farm, but he says he will compel the council to build him a road to get his children out to school as it is the section he belongs to, but he has a school just about as near to him on the north as he has to the south. Can he compel the council to build road?

No. It is discretionary with the council as to whether it opens this road or not, and it should not do so unless the convenience of the public requires it. It should not open the road simply to accommodate a private owner, especially since he seems to have now ample ingress and egress to and from his premises.

Formation of New Polling Sub-Division.

448—McL.—Our municipality consists of three townships and the people in the west end want a polling booth which would compel us to have two polling booths in place of one as now. Can we have two polling places in the corporation without any extra change with regard to school taxes, etc., such as a ward system?

The council may pass a by-law providing for the establishing of a new polling sub-division in the municipality, if the convenience of the voters requires it, without in any way affecting the arrangement of school sections, or the payment of school rates, and it will not be necessary to divide the municipality into wards. (See sections 535 and 536 of The Consolidated Municipal Act, 1903).

Power to Sell Municipal Property.

449—H. W. E.—Our council purchased a number of years ago a drill shed and the lot on which it stands, they leased it since for a saw mill. The miller now wishes to purchase the said building and lot. Can the council sell the building and lot to him privately for a certain sum and give him a deed, or what process would the council have to pursue in order to sell the building to him?

The council is empowered by sub-section 1 of section 534 of The Consolidated Municipal Act, 1903, to pass a by-law for disposing of property belonging to the corporation when no longer required. If this property is no longer required by the municipality for its uses, and was not conveyed to the village corporation in such a way as to constitute them trustees thereof for the public, the council may sell it privately or by public auction, as they see fit, to the present occupant or any other person or company, and give the purchaser a deed therefor. If these premises were conveyed to the corporation in such a way as to constitute them trustees thereof for the public, statutory authority must be obtained before the council can alienate it.

Mode of Filing Appeal to Court of Revision.

450—T. I. T.—A ratepayer of this town, claims he called at my office on the 14th of May last at the hour of 5.30 p. m., to place in my hands an appeal against his assessment, but finding the office closed at that hour, he delivered the letter at the post office for me. This letter did not reach me until the afternoon of Monday, the 16th May. My office hours are from 9 a. m. to 5 p. m. Can the Court of Revision legally consider this appeal?

Sub-section 2 of section 71 of The Assessment Act provides that this notice shall be given to the clerk within the time therein mentioned. It does not authorize the sending of it to him by mail. Assuming that the assessment roll was returned by the assessor on or before the 30th April, as required by law, a notice of appeal received by the clerk on the 16th of May would be too late, and the Court of Revision had no authority to entertain the appeal. (See the latter part of sub-section 4 of section 71).

Election of Trustees in New Section—Liability for Building Line Fence.

451—J. C.—1. Our council formed a new school section, which does not come in force till the 15th of December. When will the trustees be appointed?

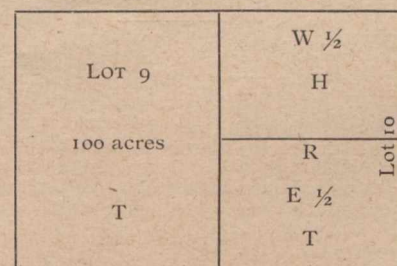
It used to be a branch school. There is one trustee in new section now. Will the one that is in be legal? or will there have to be three elected? Will one have to be elected for one year and one for two years, and the other for three or four years?

To settle a dispute in 1894 T. owned lot 9 and R. owned lot 10. They had the line run and the parts of fencing agreed on. T. built east half of fence, then in 1896 T. bought from R. the east half of lot 9, fifty acres. Then in 1898 R. sold the west half to H. Now H. wants T. to build part of west half.

2. Has T. a right to build it, as he has built the east half already?

3. H. wants to have the line run again. Has T. a right to pay for it again, as he paid once for it?

4. Did H. not step into R.'s place in regard to the line fence?



1. We assume that this by-law is to come into force on the 25th December next, as provided in sub-section 3 of section 41 of The Public Schools Act, 1901. None of the trustees of any of the sections out of which the new section was formed will be ex-officio trustees of the new section. Three trustees for the new section will have to be elected as provided in sub-sections 5 and 6 of section 12 of the Act.

2. We are of opinion that T. should build and maintain his share of the line fence between him and H.