

unassessed residents a poll-tax of \$1.00 per day, while those assessed pay a lower rate?

4. Have the trustees power to charge fees for travelling shows, and to impose licenses for the sale of cigarettes, etc.? Or can council give them such power?

5. Would it be legal or right to grant the trustees the hotel license fees for all the hotels within the village, or should it just be a proportionate share of the same?

1. The police trustees have no authority to commute statute labor within the limits of the police village. This must be done by the councils of the adjoining municipalities, pursuant to section 103 of the Assessment Act, which provides that "the council of any township may, by by-law, direct that a sum not exceeding \$1 per day shall be paid as commutation of statute labor, for the whole or any part of such township, etc."

2. The trustees have no such power. The councils of the adjoining municipalities may commute the statute labor within the area of the police village, at a rate per day not exceeding \$1.

3. No. The rate of commutation fixed by the by-laws of the adjoining municipalities will apply equally to persons liable to perform statute labor under section 100 or section 102 of the Assessment Act.

4. Yes. Section 52 of the Municipal Amendment Act, 1900, repeals section 49 of the Municipal Amendment Act, 1899, and empowers the trustees of a police village to pass by-laws for the purposes mentioned in sub-sections 8 and 9 (regulating public shows, and licensing same), and sub-sections 28 and 29 (regulating the sale of tobacco) of section 583 of the Municipal Act.

5. Section 47 of the Municipal Amendment Act, 1899, provides that "the council of any township in which a police village or part of the territory comprising a police village is situated, may by by-law provide that the whole or any part of the sum collected and received by the township for licenses issued for premises situated in the police village or penalties imposed for offences committed in the police village under the Liquor License Act, shall be placed to the credit of the police village in the books of the township treasurer, and be available for the purposes of the said village."

Fees for Town Treasurer—A Tax Defaulter.

277.—W. R.—1. Is the town treasurer entitled to 10% or what, for collecting arrears of taxes over and above his salary, when nothing to the contrary is stated in the by-law making the appointment? State law, if any.

2. A citizen, for reasons of his own, declined to pay his taxes in 1899. There was plenty to distraint upon but the collector says he was instructed verbally to give the party time, yet he had not paid when the collector's roll was handed over to the treasurer in April of 1900. Said taxes are not yet paid. Can the amount be collected? Please state how.

1. It is part of the town treasurer's ordinary duties to collect arrears of taxes due the town, and he is entitled to nothing above his salary for so doing.

2. These taxes cannot now be collected from the person who ought to have paid them. The town will have to look to the

collector and his sureties to make good the amount.

Rules of Order Governing Council Meeting.

278.—J. C. C.—I would like to know if you think it is necessary to have three separate motions, ordering respectively the introduction, the first reading, the second reading and the third reading, when passing an ordinary by-law, such as perhaps merely to appoint a new pound-keeper in room of one deceased, etc? Why would it not answer every purpose both as to form, legality, etc., by one and the same motion to agree that "by-law be introduced and read a first, second and third time," or perhaps better still, that "by-law be introduced and passed." Why does common usage give ordinary by-laws three separate readings?

You do not say whether your council has adopted any rules of order governing its procedure. If it has not, the parliamentary rules of procedure should be taken as a guide, in so far as they are applicable to meetings of municipal councils. We are of opinion that it is not essential to the validity of any by-law, in the absence of a rule requiring three readings of a by-law, that separate resolutions should be introduced and passed providing for three readings; nor that the by-law should be read three times before being finally passed. We see no objection to either of the forms you suggest. The custom of reading a by-law three times before passing it is taken from the parliamentary rules of procedure. (See Biggar's Municipal Manual, page 284)

Electric Light and Waterworks By-Law.

279.—C. M. T. What is meant by subsection 5 of section 569 of the Municipal Act, 1897?

The sub-section referred to appears to give the councils of certain towns power to pass by-laws for the purpose of extending or improving water and electric light systems, provided the same are first approved of by the Lieutenant-Governor in Council, it being first shown to the Lieutenant-Governor in Council that the extensions are necessary, and that a sufficient additional revenue will be derived therefrom to meet the annual special rate required to pay the new debt and interest, and provided also, that on the final passing of the by-law or by-laws, three fourths of all the members of the council vote in favor of the same.

If the legislature adopted the system of placing the provisions dealing with a particular subject together instead of placing them here and there in the statutes it would be much more convenient and obviate the necessity of hunting all over the revised statutes for the scattered provisions dealing with a particular subject.

Licensing Butchers.

280.—SUBSCRIBER.—The council of this municipality imposes a license on permanent butchers and also hucksters coming in out of any other municipality. The hucksters do not pay any taxes in the town. Can the town impose a license on the hucksters and exempt the permanent butcher, who pays taxes?

We are of the opinion that the council cannot discriminate between those persons who are and those who are not residents of the municipality. In the case of

Jones v. Gilbert (5 S. C. R., page 356), the Supreme Court of Canada held that a by law or ordinance of the city of St. John, discriminating between resident and non-resident merchants, traders, etc., by imposing a license tax of \$20 on the former, and \$40 on the latter, was invalid because the Act under which it purported to be passed, gave no power to the common council of St. Johns of discrimination between residents and non-residents such as they had exercised in the by-law, and we cannot find that the statutes of Ontario give municipalities in Ontario any such power.

An Illegal School Section By-Law.—Statute Labor of Defaulters.

281.—J. J. — A petition was presented to the council asking that two separate sections be formed out of one existing section. A by-law was passed giving effect to the petition on March 5th, 1898, but in defining the boundaries of the new-formed sections, certain lots were detached from two other sections and added to the new sections; thus three school sections were effected by the change. The persons affected were not notified, and a copy of the by-law was not served upon the secretary of the board of trustees effected. The secretary of the affected board of trustees has just now discovered his section has been affected by the by-law, and claims that the by-law is illegal.

1. The case being as it is, can the council repeal the by-law before five years?

2. In making out the collector's roll, should the clerk regard this by-law as valid, he knowing the persons affected thereby were not duly notified before the by-law was passed?

3. The newly-formed section has not yet elected trustees, or put in a levy. Can the section be dissolved? See section 9, (4) Public Schools' Act.

4. As this by-law is really not in the interest of the ratepayers affected, could you point out the easiest way to repeal it, if it is possible?

5. In case a local council does not pass a by-law fixing the rate at which persons may commute their statute labor, has the clerk any authority for entering \$1.00 for each day in the collector's roll against the name of a resident owner, who makes default in performing his statute labor?

6. If such a by-law is not passed, what remedy has a council against a resident owner who makes default in performing his statute labor?

1. The council can and should repeal this by-law, as it was illegally passed, the provisions of subsection 2 of section 38 of the Public Schools Act not having been complied with and cannot be enforced. On an application being made for the purpose, it can be quashed. In the case of Young vs. Ridgetown, 18 O. R., 140, the council having passed a by-law which was invalid, repealed it and this course ought to be taken here because the by-law, as it stands, may be attacked and the municipality be required to pay the costs.

2. The clerk will have to be guided by the provisions of the by-law so long as it remains unrepealed. He cannot assume the position of a judge as to whether it is good or bad.

3. Upon this statement of the facts, even if the by-law forming the new section were valid, the council could pass a by-law under the authority of this subsection, declaring such section dissolved, etc. The section quoted presupposes