

Powers of Trustees of Police Village as to Expenditures and Their Liabilities.

191—A. McL.—1. Have the police village trustees power to expend the money which they receive in lieu of the general local township rate, in laying sidewalks, or must it be spent exclusively in the improvement of roads for public travel?

2. Are the police village trustees liable for defective roads and sidewalks when they pass by-laws in order to raise more money than the general township rate for to lay sidewalks and improving of streets?

1. The trustees of a police village can devote such portion of the money as they may deem necessary or advisable to the laying of sidewalks within the limits of the village. See section 741 of the Municipal Act.

2. No.

Division of Statute Labor.

192—J. R.—A owns two lots, on which the assessment calls for three days' road-work. B owns two lots, on which the assessment calls for three days' road-work. Only B is in two road beats, which gives him three days more. The council appointed two pathmasters last year, which threw B into two beats when he was only in one before. Can council collect extra three days from B? A owns a farm that is assessed for \$600, which calls for five days' road-work. B owns three farms, which are in three road beats, and he is assessed for \$300, which would give him less than A only by being in the three beats, he has three days more. Is it legal for the council to collect extra road-work in these cases?

No. The fact that a man's lands are situated in more road-divisions than one does not justify or empower the council to charge against it more statute labor than its assessed value would warrant according to the ratio of statute labor in vogue in your municipality. If the municipal council so orders, this statute labor can be divided amongst the different road-divisions in which the lands are situated. If the council does not otherwise order, "every resident shall have the right to perform his whole statute labor in the labor division in which his residence is situated."

Status of Member of Council Sued by Council.

193—J. S. B.—In 1900, A was member of the municipal council and was road commissioner for ward four. The council instructed him to expend \$30 in improving the road at lot 7, concession 10. He let the contract and when finished gave an order on the treasurer for the amount, which the treasurer paid. At a subsequent meeting of council, he moved that an order issue in favor of contractor for work done at lot 7, concession 10. The order was made out and having been signed by the reeve, was handed to the commissioner, was presented to treasurer, who claims he paid the money on it. Therefore the money seems to have been paid twice for the same work and the council finds it necessary to sue the commissioner (who is also a member of this year's council) for the refund of that money.

1. Will the fact of one of the members of council being sued and having to stand a lawsuit disqualify that member, while the suit is pending?

2. If A persists in sitting and voting in council, what steps should council take to prevent him?

3. In case A should win the suit, would he still be disqualified as a member of council?

1. No.

2. Since being sued by the council does not disqualify "A" or vacate his seat,

he has the right to sit and vote in council.

3. No. To avoid difficulties, the council should regulate the payment of accounts by by-law authorizing the treasurer when to pay. The clerk should sign all orders whether issued by commissioner or council.

Road Commissioner Can be Collector—Indigent's Medical Account.

194—J. R.—1. The council of this municipality would like to appoint the road commissioner collector. Can it legally be done?

2. An inmate of the House of Industry made his way to the village a short time ago, and went direct to the medical health officer, who treated him without authority from this board. The old man doubtless needed a doctor but the disease did not belong to the infectious or contagious class. Can the medical health officer, in such a case, collect his fee from the council?

1. Yes.

2. No.

Payments by Treasurer—15th December Statement—Auditor's Report—Charges for Preparing Statement—Account of Government Grant for Schools—Appropriation for Roads, etc.

195—J. H. P.—1. Is it legal for a treasurer to pay a note or interest on a note after it becomes due, without some authority from the council?

2. Should the financial statement issued in December contain only such orders as were issued during that year or all orders issued and all orders of the previous year (1899) paid in 1900?

3. Should auditors report verbally to the council or in writing regarding any illegal actions, mistakes, etc.?

4. Can the reeve, treasurer and clerk legally charge \$10 for preparing an ordinary abstract financial statement?

5. Are municipal treasurers required to give any account of the government grant to schools forwarded by the county treasurer? If so, where should it appear?

6. Is it legal for the new council of 1901 to vote appropriating \$500 for roads and bridges at the first session, that amount not being available, unless it be taken from money raised in 1900 to pay notes owing by the township?

1. No. Assuming that the making of the note is authorized by by-law of council to borrow, these payments should be authorized by lawful by-law or resolution of council. See section 290 of the Municipal Act.

2. The financial statement prepared under sub-section 6 of section 304 of the Municipal Act should comprise ALL the treasurer's payments from the 15th of December, 1899, to 15th of December, 1900.

3. The auditors should report in writing to the council on all matters investigated by them in discharging the duties of their office. See sub-section 2 of section 304 of the Municipal Act.

4. No. The preparation of this statement is a duty, incidental to their respective offices, imposed on the councils and their officials by sub-section 6 of section 304, and no provision is made for a payment being made to any of them for doing the work.

5. An account of receipts and expenditure on account of government school grants, should be entered and kept in his books, but as to school monies a municipal treasurer shall be considered sub-treasurer of county treasurer. See sec. 75 of Public Schools Act. This account should also appear in the December statement and

annual audit of the books and accounts of your municipality.

6 Yes. It is necessary that roads and bridges should be kept in repair, and a portion of the funds of the township should be set apart for this purpose. This sum should not, however, be taken out of moneys raised in 1900 to pay outstanding notes, but, if it is not on hand to the credit of the general fund, it can be borrowed by the council of the municipality under the authority of section 435 of the Municipal Act, pending the collection of the taxes for year then current.

Rights and Liabilities of Gas Companies on Highways.

196—GAS—1. Can the council of a township legally lease the roads or road allowances of the municipality to a company for the purpose of boring for natural gas?

2. If they can, can I prevent the company from boring in front of my farm? All the roads in the gas belt are well travelled highways and the plant will occupy half or more of the width. The noise and escaping steam will be a source of danger to all parties driving past. The company are willing to give a bond to become responsible for all damages caused by or on account of their operations.

3. If a gas company lays their mains along a highway without leave from the council, what redress have individuals whose teams are frightened by the escaping or burning gas?

1 and 2. The council of any township or county has power to sell or lease by public auction or otherwise, the right to take minerals found upon or under any roads over which the township or county has jurisdiction, taking the proceedings and precaution provided by section 657 of the Municipal Act. In the case of Ontario Natural Gas Co. vs. Gosfield, 18 O. R. 627, the court holds that natural gas is a mineral.

3. The company will be liable for any damages which it may occasion to persons using the highway for public travel.

Should Township Councillors Take Oath of Allegiance?

197—R. K. J.—Oath of allegiance necessary for municipal officers. In your answer 129, did you overlook chapter 16, R. S. O., 1897, section 3, in which it is distinctly stated that the oath (the form of which is therein given) is to be taken by "any mayor or other officers or member of any corporation," within the province equally with any civic officer?

The section referred to does not require township councillors to make any oath of allegiance by reason of the death of Queen Victoria. It simply provides the form of oath to be taken when, by some act of parliament or proclamation, certain officers are required to take an oath of allegiance.

Member of Committee Not Member of County Council.

198—LEAMINGTON—The county council appointed a building committee of three to erect house of industry. C, one of the committee, was defeated at the election in January. The council at January session continued C as member of building committee and made him member of committee to purchase furniture and furnish building. They also made him inspector for house of industry. Was the action of the council legal? If so, is there any precedent for such an unusual move?

C not being a member of the council had no right to act as a member of the committee of the council. The council