

Dillon, in his admirable work on municipal corporations, thus describes the liability of corporations for the act of an official appointed by them to perform statutory duties:—

“It will be seen, on general principles, it is necessary, in order to make a municipal corporation impliedly liable on the maxim of respondeat superior for the wrongful act or neglect of an officer, that it be shown that the officer was its officer, either generally or as respects the particular wrong complained of, and not an independent public officer; and, also, that the wrong was done by such officer while in the legitimate exercise of some duty of a corporate nature which was devolved on him by law or by the direction or authority of the corporation.”

Par. 980 further states this doctrine: “The doctrine may be considered as established, where a given duty is a corporate one—that is, one which rests upon the municipality in respect of its special or local interests, and not as a public agency, and is absolute and perfect, and not discretionary or judicial in its nature, and is one owing to the plaintiff, or in the performance of which he is specially interested, that the corporation is liable in a civil action for the damages resulting to individuals by its neglect to perform the duty, etc.”

Par. 981: “The liability of the corporation for its own negligence, or for its servants’, is especially clear, and, in fact, indisputable, where it has received a consideration for the duty to be performed or where, under permissive authority from the legislature, it voluntarily assumes and carries on a work or undertaking from which it receives tolls or derives a profit.”

In *McSorley v. Mayor of St. John*, 6 S.C.R. 531, the whole question is very ably and fully considered as to the extent of the liability of corporations for the acts of persons appointed by them pursuant to a statute to perform statutory duties assigned by the Legislature, and although on the peculiar facts of that case the corporation were held liable by a majority of the judges, the statement of the legal principles applicable in determining the liability of a corporation for the acts of an officer, though appointed by them, for acts performed by such officer pursuant to statutory directions, as laid down by Chief Justice Ritchie in his dissenting judgment have since been approved of by our own Court of Appeal in *Seymour v. Maidstone*, 24 A.R. p. 376. This latter case decided that the acts of a civil engineer appointed by the county in performing certain statutory duties set out in the Ditches and Watercourses Act, R.S.O. 285, were not acts of the corporation and that the municipal corporation were not liable to the plaintiff for any irregularities or other improper performance of his duties by the engineer. Judge Osler based his judgment upon the fact that for the purposes of that act, the engineer was an independent officer though appointed by the corporation. His duties were fixed and prescribed by the statute. The council and the corporation could exercise no judgment nor give him instructions, nor have any control over his proceedings. In my view the county treasurer in conducting tax sales under the provisions of the