

provided by such statute. The only way by which the municipality could acquire the land in question legally by reason of the non-payment of taxes, was in the manner provided by section 184, of the Assessment Act, and even in that case the municipality would have to sell the lands within seven years from the time when they were acquired. From what we have said we do not think that a fresh deed from A. T. in the manner suggested by you would help matters in the least. The only course we can suggest is the passing of a by-law, under section 576, of the Municipal Act. If that be done, any person claiming to be entitled to compensation will have to take proceedings within the time limited by section 438, of the Municipal Act. If the circumstances are now such as to render this course unsatisfactory, the council will have to apply to the legislature for relief.

Assessment of Telephone Company.

273—E. T.—We have in our township a telephone company, which is not assessed; can we assess the company? and if so, how can we do it?

A company of this kind is assessable under the provisions of section 18 of the Assessment Act as enacted by section 1 of the Assessment Amendment Act, 1902. Subsection 2 of this section provides that the land "of companies of this description shall be assessed in municipalities divided into wards in the ward in which the head office of the company is located. If such head office is not situated in the municipality, then the assessment may be in any ward thereof. By subsection 3 the poles, wires, substructures and superstructures of such a company upon the highways of a municipality are constituted "land" within the meaning of the Assessment Act, and shall, when, and so long as in actual use, be assessed at their actual cash value, as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises in and from the municipality, and subject to similar conditions and burdens, regard being had to all circumstance adversely affecting their value, including the non user of any such property, etc.

Seizure of Machinery Not Paid For.

274—I. A.—Enclosed find letter from the M. C. F. M. Co. of . . . . and also one from A. T. S., our tax collector. I might just say by way of explanation, that Mr. S could not collect the taxes from this man and the only thing he could get to seize was the fanning mill and the council thought he was quite justified in seizing and selling this, which he did with the result as per the company's letter. Will you kindly let me know by return mail if the company can claim and hold this fanning mill against taxes, and if so, if the mill is delivered to them, can they claim pay for it? If they have a right to hold the mill against taxes we can get it back from the purchaser and leave it where it was or sell same to them or their agent. How should we write them in this matter?

Clause 2 of subsection 1 of section 135, of the Assessment Act, provides, that distress for taxes may be made "upon the

interest of any person assessed in any goods on the premises, including his interest in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition." Assuming that the passing of the property in the fanning-mill from the vendor to the purchaser was conditional on payment in full of the purchase-money, under the above subsection the collector could therefore seize and sell only the interest of the person assessed, whatever that actually was, in the fanning-mill. In other words, the collector could only sell subject to the rights of the unpaid vendor.

Traction Engines on Highways.

275—A. D. A.—In the township adjoining ours two gentlemen own traction engines, and use the same for power for threshing, cutting wood, and straw and grinding grain in our township, going from one farmer to another, at certain times during the year, and cutting the roads up very badly when muddy, and breaking the planks in many of our bridges when passing over them.

1. Does the Act to authorize and regulate the use of traction engines on highways, chapter 242, page 2945, R. S. O., 1897, refer to the above engines as well as those for carrying freight and passengers as stated in section 1 of same chapter?
2. Is section 10 applicable to the owners of the engines?
3. If they break the plank on our bridges can our council compel them to pay for damages?
4. Should an engine break through a bridge could the owner thereof come on council of township for damages?
5. If the owner refuses to settle for any damages done to bridges by his engine, does section 16, page 2948, penalty clause apply to him?
6. When the roads are muddy the owners of these engines bolt on the wheels "mud spikes" and we have found in passing over our bridges those spikes go through the planks and split pieces off underneath. Has a municipality power to pass a by-law prohibiting the owners of such engines from using those mud spikes in going over the bridges?
7. Also, has a council power to prohibit the running of such engines upon the highways when the roads are muddy, say in the late fall and early spring.
8. Would it be wise for the council to notify the owners of the engines, drawing their attention to the statutes, and requesting attention to same?

We have found the traction engines an expense to the township by breaking down many of our bridges, and also a very great nuisance in the spring and fall by going upon our roads and cutting great ruts in them.

1. Yes.
2. Yes.
3. Yes.
4. No.
5. Yes.
6. No.
7. No.
8. We see no objection to the council following such a course.

Changing of Date of Holding Township Court of Revision.

276 M. C.—Can you inform me if the council have power to change the date of holding court of revision of the assessment roll? My reason for asking, is that the date for holding said court in the township of S. is on the 29th day of May, and the provincial elections will be on the same date, and I cannot attend to both.

As the day for the holding of the first sittings of the annual court of revision in a township is not a date fixed by statute, there is no legal reason why your council should not, at its next meeting, change the date now appointed for holding such sittings. No person can be prejudiced by a change in this date, as all parties who may be complained against must be served with the special notice prescribed by the Assessment Act.

Duties of Councils and Trustees as to Non-Resident Pupils.

277—G. A. M.—In school section No. 2 of this township there are three or four ratepayers who want to send their children to the school of section No. 3. Their reason is that the school in section 3 is much the better school, and in the winter the children have a very bad road to get to their own school?

1. Can the township council direct that the property of these ratepayers be assessed as being in school section No. 3?
2. If the trustees of section 3 be unwilling to admit these children on account of lack of accommodation, and the trustees of section 2 be unwilling to remit the school rates of these ratepayers, is there any way in which they can proceed to get what they want?
3. If the board of section 3 be willing to admit the children upon consideration of getting the school rates which their guardians pay to section 2, but the board of section 2 be unwilling to remit these rates, is there any remedy?
4. Has the township council anything to do with such a dispute?
  1. No.
  2. In order to require the trustees of school section No. 3 to admit to their school the children from school section No. 2, it will be necessary to show that the children in school section No. 2 reside NEARER the school-house, in school section No. 3, than that in their own section, and that the inspector reports the accommodation of the school-room, in school section 3, sufficient for the admission of such pupils. (See sub-section 1, of section 95, of the Act.) As nothing is stated as to these conditions, we cannot give this question a definite reply.
  3. No.
  4. No.

Parties Should Have Recourse to the Ditches and Watercourses Act.

278—H. E.—On the roadside in our township is a small basin which has always been there, and holds water for a considerable part of the summer, and at certain times in the spring season the water is thrown back into a neighbor's barnyard. Natural drainage will take away the water, excepting, perhaps, about eighteen inches. Can the council be compelled to open a drain through private property adjoining in order to drain the basin?

A council has no authority of its own motion to enter upon the lands of private parties to construct drainage out-