

" January, cause it to be registered, numbered, described and licensed for one year from the 1st day of the month of February, in the office of the Secretary-Treasurer of the town, . . . and shall cause it to wear around its neck a collar to which shall be attached by a metallic fastening a metallic plate, having raised or cast thereon the letters T. T. P., and the figures indicating the year for which the tax has been paid, and number corresponding with the number of the registry, . . . and the owner or keeper shall pay for such license, \$1.50 for a male dog and \$2.50 for a female dog."

The by-law contains also other provisions under the power conferred by section 275 of the "Town Corporations' General Clauses Act," which authorizes the town-council to pass by-laws to cause dogs to be muzzled or tied up, and to prevent them being permitted to go at large or without some person to take charge of them, and to authorize municipal officers to destroy vicious dogs or those found contravening the municipal regulations. It contains moreover a clause imposing a fine or an imprisonment for enforcing its provisions.

The plaintiff represents that the defendant was, on the first day of February last, and still is the owner of a dog kept within the limits of the town, and that he had neglected to cause such dog to be registered and to comply with the requirements of the by-law, and prays that in consequence of this contravention, he be condemned to pay a fine not exceeding \$20.00 or to be imprisoned for a period not exceeding thirty days.

The evidence proves the defendant's possession of the dog and his omission to pay the tax for the current year.

The defendant pleads, among other things, that the plaintiff has no right to enforce the collection of the tax in the manner and form attempted.

The power given by the legislature to the town-council by the Special Act is clearly one to impose taxation on animals for the purpose of revenue, and not one to license the keeping of animals within the limits of the town for the purpose of police regulations. There is in the section referred to a misapplication of the word "license-fee"; and it is

evident that it is used as synonymous to the words "annual tax" (Dillon on Municipal Corporations, 2nd. Ed., No. 609). The town-council does not therefore possess the power to license animals within the limits of the town, but merely to impose and levy an annual tax upon them. The phraseology of the by-law is peculiar, but, although the town-council has no power to force the owners of dogs to register them and to cause them to carry a metallic receipt for the annual tax, it seems to me that the words used are sufficient to express the intention of imposing an annual tax upon dogs and to authorize the levying of the same.

How is the payment of this tax to be enforced? Where a mode to enforce the payment of taxes is prescribed by statute, that mode and no other is to be pursued (Dillon on Municipal Corporations, 2nd. Ed., No. 653; Cooley on Taxation, page 300). In the case of the Town of Lachute, the collection of taxes is regulated by the "Town Corporations' General Clauses Act," which prescribes that municipal taxes may be levied by the seizure and sale of the goods and chattels of a rate-payer in default under a warrant signed by the mayor, or may be claimed by an action brought in the name of the corporation. No power is given to enforce payment by fine or by the arrest of the person taxed.

In the present case, however, the corporation instead of asking by its action that the defendant be condemned to pay the amount of the tax upon his dog, asks that he be condemned to pay a fine or to be imprisoned for his breach of the by-law. This is not levying and is moreover not the mode prescribed; and the suit is therefore illegal and untenable.

That by-laws may be enforced, it is necessary that some penalty should be imposed for the breach of them; and the legislature has therefore empowered Municipal Councils to enact penalties by fine or imprisonment. But this applies to the breach of a rule of conduct laid down by a by-law and not to the neglect or refusal to pay a tax imposed by a by-law. In the first case, when a municipal corporation prosecutes, it seeks to punish an infraction which has been committed of its by-law; but in the other, it seeks