

The party injured may institute an action against the municipal corporation for the amount of the damages he has sustained, and if he secures a verdict and the person responsible for placing the obstruction, which caused the accident, on the highway, was not a servant or agent of the corporation, the municipality will be entitled to judgment over against the person who placed the obstruction on the highway for the amount of the verdict and costs, as provided in section 609 of The Consolidated Municipal Act, 1903.

Assessment of Stock in General Store.

264—W. H.—What is the proper method of assessing stock in trade in a general store? That is, what ratio of value to be placed on paid up stock?

This is personal estate and should be assessed at its actual cash value, as it would be appraised in payment of a just debt from a solvent debtor, as provided in sub-section 1 of section 28 of The Assessment Act, subject to the exemption mentioned in sub-section 24 of section 7 of the Act, that is, so much of the stock as is equal to the just debts owed by the owner on account of such property.

Assessment of Toll Roads.

265—A. R. E.—Would you kindly give me your construction of the law as to the proper method of arriving at the legal valuation of toll roads owned by Gravel Road Companies for assessment purposes? We have several such roads in our township and the companies are continually appealing to the Court of Revision for reductions of their assessments. We have had an arbitration on one portion of toll road under The Toll Road Expropriation Act, 1901-1902. Would the award made by the arbitrators be a just basis as to valuation for our assessor to take in making his assessment of such property?

Section 52 of The Assessment Act provides that plank, gravel, macadamized or other toll roads not owned by any municipal corporation shall be assessed as real estate in the municipality in which the same are situate, and in making the assessment the assessor shall take into consideration the value of (1) the land occupied by the road; (2) the materials employed in the superstructure; (3) toll houses, buildings and gates on the road; (4) quarries, gravel pits and roads to and from such places, and used in connection therewith." This property should be valued by the assessor at its actual cash value, as it would be appraised in payment of a just debt from a solvent debtor, as provided in sub-section 1 of section 28 of the Act. The assessor should use his own judgment in placing a value for assessment purposes upon the above property. If the value placed by the arbitrators on the portion of toll road valued by them is, in the opinion of the assessor, the correct value thereof for assessment purposes, he can enter this amount in his roll. The decision of the arbitrators in this regard is not binding on the assessor, but he should exercise his independent judgment in the matter.

By-Law Abolishing Dog Tax—Liability of Party Injuring Highway.

266—C. A. R.—1. Does section 2 of The Act for the Protection of Sheep and to Impose a Tax on Dogs mean that a petition is necessary every year in order to give the council power to pass a by-law to abolish the tax on dogs?

2. A petition was presented two or three years ago. The council of last year contended it was not necessary to have a new petition and passed a by-law to abolish the tax. Now a man has a claim for sheep killed by dogs. Can he collect pay for the sheep?

3. A man lives alongside the public highway. Water collects on his land by reason of the spring freshet. The owner of the land dug a ditch through the snow and turned the water in the centre of the travelled road, causing the road to be dangerous to public travel. Has he any right to thus use the highway without digging the snow from the ditches on the side of the road out so as to keep the water in them?

4. Is he responsible for any damage sustained by reason of his action in turning the water in the road?

1. No. If the council exercises its discretion and passes a by-law in accordance with section 2 of chapter 271, R. S. O., 1897, pursuant to a petition presented to them for the purpose, the by-law will remain in force until repealed by the council.

2. The council of last year had no authority to pass a by-law under section 2 of the Act on a petition filed two or three years before. It would appear that the council for the year in which the petition was filed exercised its discretion and refused to pass a by-law abolishing the levy of dog tax in the municipality. It is difficult to say whether a petition signed and filed two or three years ago now represents the ideas of the parties who signed it. Some of the signatories may have died, or ceased to be ratepayers of the municipality in the meantime, and the petition might not now be signed by the number of ratepayers required by section 2. Until the by-law passed by the council of last year has been quashed on application made for the purpose, if there is no money to the credit of the dog fund of the municipality, no payments can be made by the council for damages for sheep or lambs killed or worried by dogs.

3. No person can lawfully conduct water from his land to the highway and deposit it there to the danger of the travelling public or injury of the road.

4. The municipality will be liable for any damages sustained by reason of the dangerous condition of this road, and will have a remedy over for any damages and costs that may be recovered against it, against the person responsible for the dangerous state of the highway.

Application of Proceeds of Debentures—Qualification of By-Law Voter—Advertising By-Law—Number of Votes Necessary to Carry By-Law.

267—SUBSCRIBER.—Our township is voting on a by-law to build a town hall and extend sewerage and waterworks.

1. Can they use the money raised this way for paying off floating debt or any other purpose not mentioned in the by-law?

2. Can a man vote on it whose property is in his wife's name, but he is on the assessment roll?

3. How long must the by-law be advertised?

4. What number of votes are required to carry the by-law?

1. No.

2. Yes. See sub-section 1 of section 353 of The Consolidated Municipal Act, 1903.

3. The publication shall be for three successive weeks, in at least one number each week of the newspaper mentioned in sub-section 2 of section 338 of the Act, and the council shall put up a copy of the by-law at four or more of the most public places in the municipality.

4. A majority of the votes polled is sufficient to carry a by-law of this kind.

Assessment of Separate School Supporters.

268—A. W. R.—1. A ratepayer of R. C. Separate School No. 2 has a lot in partnership with a ratepayer of our section (R. C. Separate School No. 1) and the said lot and buildings are assessed to our school, does this lot give him any right to send his children to our school, as he is nearer to his own school?

2. A farmer has a farm assessed in two schools—R. C. separate school and public school. Can we have all his farm assessed to the separate school, as he has only one mile to the said school and over two miles to the public school?

1. Section 44 of The Separate Schools Act (R. S. O., 1897, chapter 294), (as amended by section 4 of chapter 34 of The Ontario Statutes, 1903,) provides that "any supporter of a separate school whose residence is within three miles of two or more separate schools, shall, after the first day of January, 1897, be *IPSO FACTO* a supporter of the separate school nearest by road to his place of residence." This ratepayer should therefore send his