

should have furnished to the clerk of his municipality a duplicate of the account he filed with the local treasurer on returning his roll, as required by the latter part of section 147, of the Act. His not having done so, however, does not affect the rights of the parties as regards the payment of the taxes in question.

**A Town By-law Under the Act for the Destruction of Noxious Weeds.**

**349**—J. C.—We have issued notices to the ratepayers of the town of which the following is a copy:

**PUBLIC NOTICE.**

All property owners and occupants are hereby requested to cut grass and noxious weeds, and prune trees opposite their several properties, in conformity with By-law No. 251, passed by the council of this corporation last year.

Sections 1 and 3 of By-law No. 251 read as follows:

"1. That some fit and proper person shall, from time to time, be appointed by this council to hold the office of inspector of noxious weeds.

"3. That it shall be the duty of such person as inspector of noxious weeds to enforce the provisions of an Act to prevent the spread of noxious weeds and of diseases affecting fruit trees, being Revised Statutes of Ontario, 1897, Chap. 279 and amending Acts, and see that noxious and useless weeds, plants and rubbish, on the streets and public places in the town of B, are cut and removed."

By order of council, dated the 2nd day of June, A. D. 1902.

(Sgd) A. B.

Chairman Roads and Bridges Committee.

The following is a copy of a correspondent's criticism thereon:

"An absurd by-law has been passed by our town council to the effect that the owners and occupants of property in Brampton shall cut the weeds and grass from the roadside opposite their property. We feel certain that such a by-law is *ultra vires* and would be quashed on appeal. Sometimes weeds and grass extend one-third of the width on each side on some of our quiet streets, with not more than sufficient clearing road for a team to pass on. The roadside in front of the owners and occupants does not belong to such owners and occupants, and the council has no right to compel such occupants to cut grass and weeds from corporation property. Revised Statutes of Ontario chap. 279, does not apply to this at all. It is intended for farm lands, and distinctly says that "such noxious weeds growing on his land," and says nothing about weeds growing on the roadside. Let the weeds be cut in a proper manner by the corporation employees as in all other cities or towns, and don't harass and annoy the residents by any such uncalled for by-law."

Now what I desire to know is: Can we legally enforce the by-law mentioned in the notice although I believe the majority are willing to comply, and indeed are doing so. There is considerably grumbling in some quarters.

The notice in so far as it requires owners or occupants to cut grass and noxious weeds, etc., opposite their respective properties, is unauthorized, and if By-Law No. 251 contains any such provisions they are *ultra vires* of the council, cannot be enforced, and may be quashed upon application duly made for the purpose. The council of the town may pass by-laws pursuant to sub-section 3, of section 686, of the Municipal Act, providing for the cutting of grass and weeds, and for the collecting of the cost of so doing, by means of a special rate on the real property on the street in which the work is done,

according to the frontage thereof, or according to the assessed value thereof when only such latter system of assessment shall have been adopted by a three-fourths vote of the full council. Chap. 279, R. S. O., 1897, makes provision for the enforcement of the cutting of obnoxious weeds ON THE LANDS of such owners and occupants only. It is the duty of the inspectors appointed pursuant to sub-section 4, of section 3, of the Act, to see to the cutting of such weeds, etc., on the streets, in cities, towns and villages, at the general expense of the municipality, and of the overseers of highways or pathmasters in townships. (See section 8, of the Act.) In the latter case the work may be performed as part of the ordinary statute labor, or may be paid for at a reasonable rate by the treasurer of the municipality, as the council may direct. The sections of the by-law set forth in the notice appear to be legal, as they refer only to the cutting of weeds, etc., on "streets and public places" in the town. The Act, (chap. 279,) applies to every municipality in Ontario. (See sub-section 1, of section 3 and section 11, of the Act, and sub-section 2, of section 542, of the Municipal Act.)

**Placing of Arrears of Taxes on the Assessment Roll.**

**350**—F. J. C.—Lands upon which the taxes have not been paid for three years have been returned by the treasurer of the town, to me, and have been entered a second time on the collector's roll for collection.

Now these taxes have not yet been collected, and the treasurer wishes me to enter them again on the collector's roll for collection. Have I the legal authority to comply with his request and enter these taxes again for collection, that work having been done once already? In other words, will the law justify me in entering a second time such taxes as have already been entered once?

The only sections I can find on the subject, are sections 152 to 159 Assessment Act as amended by 62 Vic. chap. 27 and 62 Vic. (1) chap. 2 schedule.

There is nothing in the statute to render illegal the placing of these arrears of taxes upon the collector's roll the second, third or further number of times until they have been paid, or the lands sold for taxes pursuant to section 173 and following sections of the Assessment Act. Only one entry of these arrears on the collector's roll of the municipality is compulsory, however, previous to the sale—the latter part of section 158 providing that "such arrears NEED not again be placed upon the collector's roll for collection." The time for the enforced collection of these taxes having extended beyond the three years, such extension should have been authorized by by-law of the town.

**Quarantining of Small-Pox Suspects.**

**351**—J. H. M.—About the last of March one of my daughters and also some three or four of my neighbor's family had what is supposed to be a mild form of small-pox. Then about the last of April and first of May it broke out again in three or four different houses. About the 17th June we had a meeting of the board of health and quarantined three houses and appointed a sanitary in-

spector. The sanitary inspector reported to the chairman of the board of health that I, secretary of the board of health had been into one of those infected houses for several hours the night previous to attending meeting of board of health and several other times through the week, which I can prove to be false. The consequence was the chairman wrote out a quarantine paper and had me shut in too.

1. Can the chairman, or even two members of the board of health shut a man in on the strength of a report told them and sign paper by order of chairman of board of health?

2. Had I, as secretary and ex-officer of board of health power or authority to order sanitary inspector to remove said paper, I knowing that I was not in those places and that we had cleansed our house a month and a half before this?

3. Are those parties liable for shutting me in as I was put to a great disadvantage and loss by not being able to attend to my business? Is it legal to put up those notices about fifty rods from a man's residence?

1. The chairman and all members of the local board of health are health officers within the meaning of section 58, of the Public Health Act. Section 93, of the Act, authorizes the health officers, or the local board of health to make effective provision in the manner which, to them, seems best for the public safety in the case of a person residing in the municipality, who is infected, or lately before has been infected with, or exposed to small-pox, or other infectious disease, by removing such person to a separate house, or by otherwise isolating him, etc. If any health officer deemed it expedient in the interests of the public safety, under the circumstances, and upon the information he has received, that your premises should be isolated pending an investigation of the facts, he is justified in so doing.

2. Since you are a person directly interested personally in the matter, you should not give an order of this kind to the sanitary inspector, nor should he carry it out when given. The matter should be referred to the local board of health and medical health officer, to be dealt with by them on the evidence as to the facts adduced by you before them.

3. If these parties acted in good faith in this matter, in the *bona fide* belief that they were discharging a duty required of them by the Public Health Act, they are not liable—it is otherwise if the quarantining was the outcome of malice. Notices or placards authorized to be posted up by the Act, should be posted up "on, or near the door of any house or dwelling in which the person or persons affected is, or are." (See sub-section 1, of section 85, of the Act.) As to whether the notices in this case were posted sufficiently near to the house to meet the requirements of the law, is a question of fact upon which we cannot pronounce definitely here.

**Should Construct a Drain Under the Drainage Acts.**

**352**—J. M. F.—I have been asked by ratepayers residing on lots in fifth concession of township, to know what action should be taken against the owner of lots in sixth concession, for water that comes off their lots and floods their lands spring and fall. Lots in sixth concession are higher in most places than the lots in fifth concession, or would it be the duty of