

is made, section 18 of the Act makes provision for the amount the council should pay, that is "a sum *not exceeding* two-thirds of the amount of the damages sustained." The council has no authority to pay a larger sum by way of compensation to the owner of the sheep killed or injured than two-thirds of the amount of the damage sustained, but, if it sees fit, it may, by resolution, award the aggrieved party any smaller proportion.

Powers of Police Trustees.

173—J. R.—1. In case of the police trustees of an incorporated village desiring to separate from the rest of the municipality in regard to management of sidewalks, etc., would it require a by-law to be passed by the council to enable the police trustees to take over sidewalks, etc., in the said village, or can it be done by resolution alone?

2. Has the assessor power to assess the village property separately where the owner lives in the village and owns property outside and owner wishes them assessed together?

3. The police trustees being desirous of having full benefit of all statute labor to which they are entitled, how can this joint assessment be arranged?

4. In case the police trustees take over the statute labor as above and in case of accident occurring through defective sidewalks, who would be responsible for damages, the police trustees, the village, or the council?

1. After a police village has been set apart as the statute provides, and trustees thereof elected, these trustees are authorized by section 741 of The Consolidated Municipal Act, 1903, to pass by-laws for letting contracts, or employing labor and purchasing material for building sidewalks, etc. The statute having made this provision, the council has nothing to do with the matter.

2. The assessor should assess lands inside and outside of the police village in the same manner as if no police village existed.

3. The council of the township may pass a by-law commuting statute labor within the limits of the police village pursuant to section 103 of The Assessment Act, and the amount of the commutation money to be collected may be taken into consideration when the council and police trustees are making the agreement mentioned in section 740 of the Act.

4. The township municipality in which the police village is located.

Assessment of Exempted Property—Of Premises Leased to the Crown.

174—G. G. A.—1. What is the duty of the assessor in the preparation of his assessment roll with respect to entering lands exempt from taxation under section 7 of The Assessment Act and section 591a of The Consolidated Municipal Act, 1903. Are such lands and property to be entered on the assessment roll by the assessor without regard to their being exempt, leaving it to the clerk or other officers to enter in the collector's roll the proper amount of taxes (if any) with which such lands or property are chargeable?

It is submitted that the assessor should enter and value in his assessment roll all real and personal property which would be but for section 7 of R. S. O., chapter 224, and other statutes providing for exemption, liable to taxation, as this is the only method consistent with the proper working out of the Act.

2. If exempt property should be omitted from the assessment roll, how could local improvement rates be charged against lands of churches and colleges under sections 683 and 684 of The Municipal Act, or how could the taxes chargeable on an exempt or partially exempt property under section 591a (clause g) of The Municipal Act be entered or charged in the collector's roll?

The Assessment Act is not very clear on this point. Generally speaking, sections 13 to 17 seem to hold municipal taxes and rates as a tax against the owner personally in respect of his property while other sections of this Act regard the taxes as a charge on the property without reference to the owner. There does not appear to be any principle consistently followed throughout the Act. Section 13 requires the names of taxable persons to be set down in the roll with the description and extent of property assessable against each. As the owner of exempt property is not taxable in respect of it, such

owner and property should not be set down in the roll. Section 7a, as enacted by section 4 of chapter 21, 3 Ed. 7th, also presupposes the omission of exempt lands from the assessment roll. A distinction may be drawn between property exempt under section 7 of The Assessment Act and property exempt under section 591 of The Consolidated Municipal Act, as the latter is chargeable with school taxes, but it is submitted the property in such cases should be entered in the assessment roll in the first instance.

3. To what extent is a building exempt from taxation, the lower stores or flat of which is occupied and used only as His Majesty's post office?

1 and 2. We are of the opinion that property that is absolutely exempt by law from taxation should not be entered by the assessor on the assessment roll. The first part of section 7 of The Assessment Act provides that "all property in this Province shall be liable to taxation, *subject to the following exemptions, etc.*": Clause (a) of sub-section 1 of section 13 provides that "every assessor shall prepare an assessment roll, in which, *after diligent inquiry*, he shall set down, according to the best information to be had (a) The names and surnames in full, if the same can be ascertained, of all taxable persons resident in the municipality, or in the district for which the assessor has been appointed, *who have taxable property therein.*" If a person has no *taxable property* in the municipality, that is, if his property is absolutely exempt from taxation neither his name nor his property should be entered by the assessor in the assessment roll, except for the purposes of sub-section 1 of section 15 of the Act. Property that is liable by law to taxation for local improvement purposes should be entered by the assessor in his roll, and also property wholly or partially exempted from taxation, by by-law of the municipality passed under the authority of sub-section 12 of section 591 and clause (g) of section 591a of The Consolidated Municipal Act, 1903, so as to enable the clerk to copy them into the collector's roll, and enter thereon the local improvement taxes in the one case, and partial general rate (if any) and the school taxes in the other.

3. Where premises owned by a private individual are occupied by the Crown for post office purposes, to entitle them to exemption from taxation it must appear that the Crown is entitled to occupancy. The assessor should assess all of the property except what is actually used for the purposes of the Crown. On page 89 of the WORLD for 1899 (May issue) will be found an article on "Post Offices—Taxation of," in which this question is fully discussed, and the cases bearing on the subject gathered together and commented upon.

Surety to Municipality Cannot be its Treasurer—Liability to Restore Road Washed Away.

175—PELEE.—Last year the council passed a by-law to borrow on the credit of the municipality the sum of \$7,000 to aid by way of loan A, B, C and D, to place in service a steamboat, etc., said loan to be repaid in seven annual instalments of \$1,000 each, the township paying the interest. Said A, B, C and D have given their joint notes as security for the loan.

1. C is the treasurer of the township. Would he be disqualified from acting as such treasurer?

2. If so, what would be the consequence of retaining him in said office, provided no objections were raised?

The roadway along the Lake shore has been washed away and persons owning lands along said front have personally applied to the council to build cribs for the protection of the banks.

3. Has the council the power to spend the funds of the municipality for this purpose?

(a) Without levying for the same?

(b) Without acquiring 66 feet necessary for a road?

1. C, being interested in a contract with the corporation, cannot make the declaration required by section 312 of The Consolidated Municipal Act, 1903. (See our answer to question No. 176 in this issue).

2. If the declaration referred to in our answer to question number one is not made within the period