

1899 ought to have gone to sheriff in 1900 but he said "your village becomes a town in January 1901 so why should I enter them in my books, to have to send them back in January next?" So the arrears for 1899 were not sent. The treasurer was instructed to collect same. He notified B of the arrears who answered, that only three of the lots were his and one belonged to C; he would forward to his agent three-quarters of the amount of the arrears." C paid his one-quarter share of arrears. In the meantime B sold the three lots to D, whose lawyer collected the arrears from B's agent and handed the amount to D who said he would pay them himself; D was notified unless 1899 arrears were paid the three lots would be sold this year. He asked advice and his lawyer said that the lots could not be legally sold, giving the reason, that the arrears on the four lots had been divided, part being accepted from C, and other reasons which I did not hear. The question is: 1. Can the three lots be legally sold for their share of arrears and costs?

2. If not, can the amount be recovered and how?

3. If the arrears of 1899 taxes are placed upon collectors roll this year, will it require an authorization by-law to extend the time of sale to next year? As the sale could not take place till then?

1. The fact that the treasurer had received part payment of these arrears of taxes would not invalidate a subsequent sale of the lands to realize the balance of the arrears. The treasurer is authorized to receive payments on account of arrears of taxes by section 13 of the Assessment Amendment Act, 1899. But the omission to return these taxes to the sheriff of the district in 1900 would be held to invalidate a subsequent sale for taxes. See *Deveril vs. Coe*, 11, O. R., 222; and *Donovan vs. Hogan*, 15, A. R., 432. In these cases it was held that the observance of the provisions of the law as to returns of taxes in arrear required to be made by municipal officials were imperative, and that the non-observance of these statutory provisions would render a subsequent sale to realize the amount of the arrears invalid.

2. The municipality would appear to have no remedy for the collection of these arrears.

3. These taxes could not properly be returned to the clerk pursuant to section 152 of the Assessment Act to be placed upon the collector's roll as arrears against the lands chargeable therewith until 1902 (before the first day of February). The sale cannot, therefore take place until after the return of the collector's roll for that year and no by-law is necessary to extend the time until then. But, if the sale be not held next year, then it will be necessary to pass a by-law pursuant to section 173 of the Act providing for extending the time for holding it.

#### Treasurer's Bond Should not be Given up or Cancelled.

383—R. G. B.—When the resignation of a treasurer or other officer of a corporation is accepted and his accounts found correct, so far as is known, are his bondsmen entitled to have the bond returned to them, or does the bond paper remain the property of the corporation?

The council should not cancel or surrender a treasurer's bond. As soon as it is signed by the treasurer and his sureties

and delivered to the council, it becomes one of the municipal records, and should be retained in the custody of the clerk for the time being, as such, for all time to come. If this treasurer had performed all his duties in a legal and proper manner, and had duly accounted for and paid over all monies due to the municipality from him at the time of filing his resignation, neither the late treasurer nor his sureties can be in any way prejudiced by the retention of the bond by the council. If, on the other hand it should hereafter be discovered that there is a shortage in the treasurer's accounts, as has often been the case, the possession by the council of the bond uncanceled would likely prove to be its only means of recovering the amount.

#### Payment of Cost of Polling Booths at Provincial Elections

384—Treasurer.—Is a municipal treasurer justified in paying for polling booth at Provincial election on deputy returning officer's order, or should the account be presented to council and passed by them before being paid?

Section 203 of the Ontario Election Act (R. S. O., 1897, chapter 9) provides that "the fees in schedule B to this Act, mentioned, in respect of the matters therein contained, and no others shall be allowed to the general officers therein mentioned respectively, for the services and disbursements in the said schedule specified." Item 18 of this schedule is as follows:—"For each polling booth, actual cost not exceeding four dollars, to be paid by the township treasurer on the order of the Deputy Returning Officer, unless the township council provides suitable polling places at their own expense."

#### Council Should not Open Road for Private Parties.

385—J. D.—Is a township council bound by law to open a road for three ratepayers when the location of the Government road allowance is in dispute, and likely to cause a law suit, which would cause much expense on township and only benefit those three ratepayers.

No, it is discretionary with a township council, as to whether it opens a road allowance or not. It should not do so, unless the necessities of the general public require it.

#### Duties of Assessor Under Section 51 of the Assessment Act.

386—A. B.—1. Is it the duty of the assessor to call at the house of each person when he is assessing?

2. B and C are owner and tenant of a cleared 100 acre farm on which they continuously reside. The assessor did not call on them at all, but assessed them at a neighbor's place and sent no schedule, but told the neighbor he would leave the schedule with him to give to them. Result, B and C did not get their schedule in time to appeal and find now that they are wrongly assessed. B's name being omitted from the roll and C's statute labor being one day too much and assessed for a dog which dog he did not own, neither was there one on the premises for at least a year. What redress have B and C?

3. Can they legally be compelled to pay tax on said dog and pay for the extra day's statute labor?

4. Would it not be wisdom for the council to settle with them?

1. The assessor has the right to exercise his judgment in this matter. If he has sufficient knowledge of the property to be assessed, and of the particulars required by law to be entered by him in his assessment roll, to enable him to make the assessment, without inspecting the premises or interviewing the owner, he is not bound to call at the house of the person to be assessed.

2. Section 51 of the Assessment Act provides that "every assessor, before the completion of his roll, SHALL LEAVE for every person named therein, resident or domiciled, etc., a notice according to the form given in schedule D. to this Act." It is to be observed that the assessor is not required by this section to serve this notice of assessment PERSONALLY upon persons resident or domiciled or having a place of business in the municipality or to leave such notice at the office or place of business of such person in the municipality as he is required to do by section 52 in cities which have passed by-laws under section 59 of the Act, therefore, we are of opinion that the leaving of the notice of assessment with the neighbor to be handed by him to B and C, was a sufficient compliance by the assessor with the provisions of section 51. It is presumed that owners of property know that they should be assessed therefor, and pay taxes thereon, and that the assessor is required to file his roll when completed with the clerk, where it is open to inspection by any person interested. If ratepayers who have not received the notice of assessment mentioned in section 51, do not think it worth while to attend and examine the roll to ascertain whether they have been assessed or not, and if so, the amount of their assessments, they have very little reason to complain afterwards. In any event section 72 of the Act provides that "the roll as finally passed by the court and certified by the clerk as passed, shall, except in so far as the same may be further amended on appeal to the judge of the county court, be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 51 of the Act, or the omission to transmit or deliver such notice."

3. Yes.

4. Since this is not a case falling within the provisions of section 74, of the Act, the council has no legal authority to now interfere in the matter.

#### Supply Limited.

"This is tough luck," said Ham, mournfully, as he leaned out over the side of the ark. "What's wrong now?" queried Shem. "Why, all this water to fish in," he replied, "and only two fishin' worms on board."—Ohio "State Journal."