

owner of the land would be entitled to such damages as he had actually sustained and an injunction restraining the corporation from interfering with the road.

6. Yes.

7. We advise the council to take the course provided by section 632.

No Compensation for Government Road.

448.—I. A.—Our council wished me to write asking your opinion regarding compensation for a road which is as follows: The road in question is a government road made about forty years ago or so, running through a certain lot 18, con. 8, and the owner of this lot 18 con. 8, asks our council to give him all the concession line between the lot 18 con. 8 and lot 18 con. 7, in lieu of said government road, and the owner of lot 18 con. 7 sold some years ago to the council a road bed across his lot, the council agreeing to fence same, and now he, the owner of lot 18 con. 7 offers to take half of the said concession line and build fence on road. Would the council be justified in giving the owner of lot 18 con. 8 the concession line in question? Is he entitled to any compensation or not for said government road. Our council think not but at the same time want to deal fairly with all parties concerned, and would like your advice in the matter. Any light you can throw on the subject will be thankfully received.

We do not think the council would be justified in giving the owner of lot 18, con. 8, the concession line in question. Nor do we think him entitled to compensation for the government road.

Assessors' Equalization Union School Section Disagreement.

449.—ANOTHER CLERK.—In the November number of THE MUNICIPAL WORLD, 418, Clerk, When Assessors Meet, etc. In looking up the matter in the statutes I read: R. S. O. 1897, chap. 292, sec. 51, states the duties of the assessors sub.-sec. 2 and following sub.-secs. make provisions in a case of a disagreement. In reading the sections, it would seem that in every clause they are called assessors or assessors and arbitrators, the assessors are not styled arbitrators *ex officio*. Are two men disagreeing in a matter qualified to arbitrate on their own cause, R. S. O. 1897, chap. 223 sec. 320, salaries, etc. In case the remuneration of any of the officers of the municipality has not been settled by Act of the Legislature, the council shall settle the same; and the Council shall provide for the payment of all municipal officers, whether the remuneration is settled by statute or by by-law of the Council. Sec. 321. All officers appointed by the Council shall hold office until removed by the Council, and shall in addition to the duties assigned to them in this Act, perform all other duties required of them by any other statute, or by the by laws of the Council.

In view of the foregoing assessors being municipal officers, also the source from whence comes their remuneration, does it not appear that the Council should pay the cost of the equalization? That is, each council pay its own appointee.

Councils appoint assessors and fix their salaries in compliance with section 320 and section 321, which provides that in addition to the duties assigned to them in the municipal act they shall perform all other duties required of them by any other statute or by the by-laws of the Council. One of their duties as assessors is to equalize union school assessment once in every three years, and unless it can be found somewhere that the legislature has provided some extra remuneration for them, over and above the salary fixed by the Council, they are not entitled to anything extra for their services under section

51 of the Public Schools Act. As we have already stated we understand that the Minister of Education regards assessors as arbitrators in discharging the duty of equalizing union school sections and assuming this to be the meaning of the act, we are of the opinion that the assessors and the persons appointed by the inspector in case of disagreement are to be paid by the school-trustees of the section under the authority of sections 84 and 85 of the Public Schools Act. The three arbitrators are to be paid by the same body and whatever force there is in your argument it does not apply to the third arbitrator.

Assess Telephone Poles.—Not on Town Line.

450.—SUBSCRIBER.—Kindly let me know if telephone poles can be assessed where line runs through a township along the concession line, also there is electric light placed through the township for the purpose of conveying street and shop light from one village to another. Can township assess poles and wire, there being two electric light wires, two telephone wires and one lighting wire? Poles were placed on concession line by consent of township council without any remuneration whatever, and none being asked for, and light being used by township or townships. The whole affair is owned by one private individual. Line running on town line between two municipalities. Which has a right to assess, if any?

As to the poles, etc., within the municipality, these can be assessed, but there appears to be this difficulty, that the whole road between two municipalities forms the boundary lines and, therefore, the poles along that line cannot be said to be property within either municipality. We do not see how you can assess these.

Non-Resident Lands—Effect of Neglect to Make Proper Returns of Taxes in Arrears.

451.—L. P.—If the terms of sections 152, 153, 154, 155, 156 and 157 of the Assessment Act are not complied with for several years by the county treasurer and the officers of the several municipalities in the county, whose duty is it to carry out the terms of the above mentioned sections, and after the lapse of several years the township treasurers make returns of the arrears of taxes for their respective municipalities for the current year as directed by section 157 of the Assessment Act, and also for the preceding years during which no returns had been made? The county treasurer at the beginning of the next year, figures up the arrears on the different lots with 10 per cent. compound interest added thereto, and furnishes the clerks of the different municipalities with the list of lands liable to be sold for taxes in compliance with the terms of section 152 of the Assessment Act. The township officials also for the same year fulfil the requirements of section 153, 154, 155, 156, 157 and 158, and the county treasurer then proceeds to advertise and sell the unoccupied lands in arrears for more than three years, as directed by section 173 of the Assessment Act. Now in view of the fact that the requirements of the Assessment Act have been wholly neglected for a period of more than three years, that the county treasurer's books have not been balanced up each year, as directed by section 169 of the Assessment Act, can the treasurer legally sell the lands, and would a tax deed given by him be of any value?

2. Is it the duty of the treasurer of the county when lands are in arrears for three years and the township collector has been unable to collect the arrears, as directed in sub-section 3, section 155 of the Assessment Act, unless otherwise directed by by-law of the county, to

proceed to advertise and sell the lands without being so instructed by the township Council in which the lands are situated?

3. When the owner of non resident land is known, is it the duty of the township clerk or collector to send him a statement of the amount of taxes against his lands each year and if such statement be not sent, what effect would it have upon the sale of the said lands?

4. If impossible to sell these lands under the conditions described in the foregoing questions will the municipalities have to loose the arrears of taxes, or can you suggest any way of recovering them?

1. A substantial compliance with these sections is imperative in order that a valid sale of the land may be had under the act. We think that, if by the returns made to the treasurer of the county under section 157, he finds that the lands are in arrear, so as to be liable for sale, he should transmit the statement to the treasurer of the municipality, under section 152, and if, upon compliance with the provisions of that act and the subsequent sections, the taxes shall again be returned to him in arrear, a valid sale could be made provided that no interests have intervened by which any person would suffer or be put to loss by reason of the neglect of the officers of the municipality.

We do not think that the treasurer can, at this date, add ten per cent. upon the old arrears of taxes; if the ten per cent. has not been added from year to year in the books of the treasurer it is lost. We would also call your attention to the fact that the provisions of section 132, respecting non-resident lands, have been held to be imperative, and that unless the roll has been made out in the manner provided by that section a valid sale cannot be made under it.

2. The treasurer cannot proceed without the warrant required by section 173. Upon receiving that warrant, it then becomes his duty to proceed.

3. No, except as required by section 153. If the notice, required by section 153, is not given the sale could be set aside.

4. If it should be found impossible to make the money out of the lands, or under section 142, which makes the taxes payable by any person, that cannot be recovered in any special manner provided by the Act, a debt, it could probably be made out of the officers, who had neglected their duties, if they are worth it.

Constables to Enforce By-Laws and Liquor License Act

452.—J. R.—Can a township council legally pass a by-law for the appointment of two men who are constables to see after and prosecute all persons who violate the by-laws of the township or the Liquor License Act, and pay them for so doing out of the township funds? If the answer is "yes," give reference.

Yes. See Sections 537 and 324 of the Municipal Act.

By General Vote.

453.—R. C.—1. Will you kindly let me know your rendering of the meaning of the Municipal Act as given on page 2410 R. S. O. sec. 158, and Municipal Amendment Act of 1898, page 54 s, sec. 71a (general vote)?

2. Suppose Mr. A. has property in each ward in a town, can he legally vote for six candidates in each ward?