

1895, been drawn to continue until repealed. 2. Yes.

3. Yes. But it will not destroy claims for sheep killed before its passage.

Collection of Taxes on Hand—Owner Non-resident.

332—T. P.—1. Suppose A owns property in the Municipality, I am collector for, and is assessed for the same, but resides in another township, in the same County. Can I seize his goods at his place of residence for taxes due on said property, or is such land considered non-resident?

2. Is the Collector required to collect such taxes?

3. Is a person who is not the owner of property for which he is assessed and receiving no schedule from the Assessor of such assessment liable for taxes? If not, what is the collector to do?

4. Is a person residing in a rented house and owning a lot in the same municipality liable for taxes on said lot?

5. Explain what is meant by non-resident land. Is it land owned by persons living outside the municipality or outside the county?

6. Can a collector seize a beast, an implement or anything found, no matter who it belongs to, for taxes on non-resident lands?

1. A. is a non-resident. If he required his name to be entered on the roll, the procedure is under section 126, Assessment Act, 1892, which provides for distress upon the land itself only.

2. The collector is required to collect all taxes on his roll, or show why he cannot collect them, see section 136 of same act. 3. Yes.

4. Yes, if he has been assessed.

5. Section 3, of the Assessment Act defines "non-resident land".

6. We refer you to section 124 and 158, Assessment Act, and section 6, of Assessment Amendment Act, 1896, and "Glenn's Assessors' and Collectors' Guides" Note, X, section 126.

In case of a non-resident, the power of distress is only as to any goods or chattels which the collector may find upon the land. Any goods found upon the land, whether belonging to the party who ought to pay the taxes or to a stranger, are liable to be distrained unless expressly exempted."

Union School Section Rates.

333—O. B.—I am a resident in the township of Balfour, and I have a lot in the township of Rayside. The school section is part in Balfour and part in Rayside. The township of Balfour charges 2 cents in the dollar and Rayside charges 2½ cents in the dollar for the same school, as it is a union school section. Will you please let me know if Rayside has a right to charge 2½ cents when Balfour charges 2 cents for the same school?

Section 51, of the Public Schools Act, 1896, authorizes the assessors of the municipalities in which a union school section is situated, to determine what proportion of the annual requisition made of school trustees for school purposes shall be levied upon and collected from the taxable property of the respective municipalities out of which the union school section is formed. We presume that it was necessary for Rayside to levy a rate of two and one-half cents in the dollar to raise its proportion of the amount required by the trustees and if that is so, we cannot see how you can resist payment of the tax.

Dog Tax By-Law—Indian Dogs.

334—J. W.—Our council until lately paid two thirds value for all sheep killed by dogs after parties taking necessary oath. In the fore part of this year, by resolution of council, pay was stopped; there is no dog tax in township, nor has there been for several years. Can they do it? There has been a large number of sheep killed by dogs this season, and parties are talking of trying to make council pay for same. Can they do it?

2. Can an Indian or the Indian agent be made pay for sheep killed by Indian dogs?

3. Can a person lawfully kill an Indian dog, when it can be proved that he run sheep?

1. Section 1, of chapter 62, 1890, makes it imperative to levy a dog tax, unless the council upon the petition of twenty-five ratepayers has passed a by-law that the tax shall not be levied. Your council appear not to have passed any such by-law. Section 18, of chapter 214, R. S. O., 1887, entitles the owner of sheep, killed by dogs, where the owner of such dog is unknown, to receive compensation to the extent of two-thirds of the amount of damage sustained by him. We are of the opinion that the municipality is liable under circumstances.

2. No.

3. No, but any person may kill any dog which he sees pursuing, worrying or wounding any sheep or lamb, whether he belongs to an Indian or anybody else. The intention of the legislature was to give any person the right when he catches the dog in the act, but he has no right at a subsequent time to kill a dog, on proof that the dog had run sheep. There are other circumstances under which a dog may be killed, see chapter 462 of act of 1894.

Purchase of Road less than Sixty-six Feet

335—J. C. B.—If a council purchase a road of less width than 66 feet, post all the necessary notices of the day the council intend to consider and pass the by-law for the opening and establishing the road. There have been no objections. The council pass the by-law. Does it require a by-law of the county council to confirm the by-law, or is permission by resolution sufficient?

The proper course was to have obtained permission from the county council first. Such permission should be given by by-law. See section 282, Consolidated Municipal Act, which provides that the powers of the council shall be exercised by by-law, when not otherwise authorized or provided for. Though the proper course was to have obtained permission from the county council first, we are of opinion that if a by-law be passed by the county council granting permission to the local council to lay out the proposed road and confirming its by-law, the proceedings cannot be successfully attacked because the act, section 545, says: "No council except the council of a city, &c., shall lay out any road, &c." It does not say, "No plan shall be passed" The road cannot be laid out until the required permission is obtained.

School Taxes—Collectors' Roll—Correction of Error.

336—J. B. P.—In making up the Collectors' Roll the amount of school taxes was charged \$6.40 too low by error. Could this be correct-

ed after the person assessed has paid the tax called for as marked on said roll, and how?

The municipal council appears to have power to correct the error. See sub-section (3) of section 67, "The Public Schools Act, 1896."

Municipal Grant to Agricultural Society.

337—W. A. M.—Can a municipality legally give grants to Agricultural Societies or loan money?

Yes, see chapter 17, Ontario Statute, 1894, and sub-section 9 of section 479, Consolidated Municipal Act, 1892.

Who may be Board of Health—Pathmaster not Eligible for Nomination.

338—BOARD OF HEALTH.—A council (township) appoints the reeve, clerk and three councillors, a board of health. One of the members, a councillor, on complaint, inspects certain premises and is hauled up and fined for trespass on the ground that the appointment was illegal, being councillors, and that each councillor was liable to a fine of \$100. The amendment to sub-section 1, of section 77, of the Municipal Act, of 1892 as passed in 1895, states that a contract disqualifies for councillor and you hold acceptance of office constitutes a contract, that would disqualify a councillor that accepted the office on the board of health, but would not make the appointment illegal, as the Public Health Act says three ratepayers and all the three councillors were ratepayers, and therefore in compliance with the act. Would you please answer the following questions:

1. Was the appointment of reeve, clerk and three councillors illegal?

2. Were the councillors disqualified?

3. Were they liable to a fine of \$100 each?

4. Is a pathmaster, who has taken the declaration of office, disqualified from being councillor?

1. Our answer to question 48, in the February number was, "we do not think there is any objection to the appointment of members of the council to the local board of health." By appointing members for a term of years as required by the act of 1895, it will only be a short time until some of the members at least are not members of the council. The desire of the Provincial Board of Health is to have the best available men appointed.

2. This also answers question 2.

3. Before answering this we would like to have further information.

4. The pathmaster being an officer of the the municipality, should resign before accepting nomination for office of councillor.

Dispute re. Statute Labor not Performed.

D. B.—**339**—A roadmaster returns a rate-payer two and one-half days unperformed. It appears that they had some dispute before they began to work and were in unfriendly terms, bad enough as not to exchange words. However, about one hour before the time was up the roadmaster left for home, and did not tell the others to quit work. Ratepayers can furnish two men to swear he did his work in full, and offers to bring those two men to the council. How should council decide this case?

The usual practice in a case of this kind is for the council to settle the dispute, and in doing so they may require the person in default to pay the amount charged for statute labor not performed. They may then consider his claim for work for which the pathmaster has not allowed him as an account against the municipality.