

section and the council pass by-law placing it in another section as provided in Public School Act.

3. We should have further information showing under what authority and by whom dike was constructed, before answering.

4. (A) Yes. (B) Yes.

5. Yes.

6. Same as for ordinary highways.

7. Place the matter in the hands of a solicitor.

8. No.

9. Yes.

10. No.

Trustees Rates—Surplus.

149.—B. J. O.—Enclosed find auditors statement for A. D., 1894. Is that final or can the township council appoint a re-audit to go back for years and re-audit the financial statement (they do not wish to) but a rival auditor for 1895 accounts, takes up a case against me as clerk for giving on the collector's roll an overplus of some \$50 on twenty-three school sections in sums from a few cents to \$6 in one case. I used Lytles tables and the tenth of a mill is as near as they come. This gave the overplus to the general fund or rather the auditors did not seem to notice it. The treasurer knew it and put balance to general account as the assessment was of course unequal on different sections and for schools, causes an enquiry now?

Section 7, of 58 Vic., amends section 109, of the Public Schools Act, 1891, by adding thereto the following as sub-section 4:

(4) In all cases and at all times, the municipal council shall have power, and it shall be their duty to correct in subsequent collections any errors or omissions that may have been made within the preceding three years, the collection of the school rate, duly imposed or intended so to be, to the end that no property shall escape from its proportion of the rate, and that no property shall be compelled to pay more than its proper proportion of such rate.

We think that where a larger amount is raised in any year than that mentioned in the trustees requisition, that the full amount raised should be paid to the section.

The Public Schools Act, section 118 reads: "All sums levied and collected by the municipal council of any township for school purposes shall be paid over to the secretary-treasurer of the board of trustees, without any deduction whatever, on or before the 15th day of December in each year."

We would recommend you to submit a statement showing: first, the amount of requisition received from each school section during the last three years; second, the amount of money raised; third, the amount paid to each school. That the balances, if any, should be placed in separate accounts to the credit of each section, and that the treasurer of the section be notified. That previous to the 15th December, this year, you furnish the secretary-treasurers of each section with an order on the treasurer to be signed by

the trustees, said order to be filled in with the amount collected for 1896, together with any balance that may be to the credit of the section on the treasurer's books. The treasurer should also be furnished with a statement showing the amount raised in each school section for 1896. There is no authority for placing the balance of the trustees rates to the general fund.

Pedlars' or Showmen's Licenses.

150.—A. W.—Has an agricultural society which is incorporated, the right to license pedlars or showman, when exhibition is held in a town where they have a by-law regulating licenses? The grounds are our own, the town has no claim on them.

Yes, under section 84, Agricultural and Arts Act, R. S. O. 1887.

Vote on Special Bonus By-Law.

151.—T. T.—We have made application to the Legislature of the Province of Ontario for an act to empower the corporation of the town of Midland to submit a by-law to the people for the purpose and with the object of granting aid to the amount of \$10,000, by way of bonus, to a syndicate, for the purpose of erecting and carrying on in the town of Midland, for ten years, a factory for manufacturing wooden wares, etc.

Will you please answer, through your valuable paper, how you interpret the act regarding the vote to be taken? Some of our council take it to be two-thirds of the total freehold votes; others, again, take it to mean two-thirds of the total available votes. My reason for asking this question is that about 100 of the voters of our town are at present in the lumber camps and elsewhere. Also, can debentures in this case be issued for any other period of years than the number for which bonus is granted?

We have no copy of the act before the Legislature, but see answer to question 147, this issue, which will no doubt apply.

Tax Arrears Refunded.

152.—J. S.—One Barker entered his name for location of lots 18 and 19, concession 7, Faraday, in 1890 or 1891. He cleared some land, built a log house, and after a year or two abandoned the lots, and is said to have left the Province. The municipality carried the taxes from one year to another till last fall, when four years' taxes were due, including taxes of 1895.

The collector was notified in December, 1895, by one Gould, who claimed to have purchased Barker's claim, that there was a quantity of hay sufficient to pay all taxes due on the place, and that unless the hay was held for the taxes he (Gould) would not be responsible for them. It is doubtful, however, if Gould had any legal claim on the place. The collector was also requested, by ratepayers in the school section in which the property was situated, to collect the back taxes from the hay. He accordingly seized the hay and collected \$28 taxes and about \$5 costs from one Tait, who paid the amount under protest, alleging that he had paid \$2.50 to the former collector for the hay before it was cut, but the reeve and those of the councillors, who were seen, considered that the former collector had no right to sell uncut hay at all, and certainly not at private sale.

The matter was, however, laid before the township solicitor, who held that as the council or its officials had not returned the lands to the county treasurer in each year, as the law required, that they had forfeited their claim, as no warrant except that of the county treasurer, would be sufficient to collect the taxes of former years.

As regards the taxes of the current year, he was of the opinion that they could not be collected, as no notice of assessment had been sent to Barker or anyone else, and the lands, having been continually assessed to Barker and not placed on a non-resident roll, were not legally assessed, and that the council in seizing the hay were trespassers as against Tait. He therefore advised the council to pay Tait the full amount and interest.

The council met on the 20th inst., and were not entirely satisfied that they had a right to refund the taxes for the present year, as they thought that the equities of the case were in their favor, Tait being a self confessed trespasser, he having abandoned his claim as purchaser from the former collector, which was inconsistent with the new aspect of the case.

They wish to ask whether, in your opinion, the man Tait, as a confessed trespasser, has a better claim than the township as regards the taxes of 1895? The council has paid Tait in full, but under protest so far as the taxes of 1895 are concerned.

We are of the same opinion as the solicitor.

Separate School Supporter—Notice.

153.—A. M.—Re section 40, chapter 227, R. S. O., 1887, Mike, along with others, gives notice attested by witness on the 29th day of February, 1896, that he wishes to discontinue his support to the public school and wants to be assessed as a separate school supporter. (Notice being by registered letter and was received on the 29th, but was signed on the 25th.) A few moments after the letter is received by me, Mike appears and makes a statement that he did not understand thoroughly the nature of the requisition and that he wished to withdraw it, and still support the public school as formerly. Where will Mike be placed to be legal? I think you will understand the case. If not, I will gladly give more information. There is a diversity of opinion here, some think he will have to be a separate school supporter for 1896 and that the notice will stand (that is the verbal one) as per section 47, above recited act, and place him as a public school supporter for 1897.

We think that when you received the notice it became the property of the municipality, and should not be given up. Under the circumstances, you could consider Mike's statement and refuse to act on the notice, and Mike should be required to sign a statement that the notice was obtained by misrepresentation, and that he wished to withdraw it. If the notice is not acted upon, parties interested may appeal to the court of revision to have him assessed as a separate school supporter. We would advise that unless Mike's statement in writing substantiating his verbal statement be obtained, that you have no alternative but to issue certificate and enter his name in index-book for the guidance of the assessor. If certificate has not been granted, this statement from Mike should be obtained at once to justify you in refusing to issue it. Under section 47, notice in writing is required before the second Wednesday in January from separate school supporters desiring to be assessed as public school supporters.

Public or Private Bridge.

154.—T. D. R.—Can a Municipal Council compel the owner of a mill flume to keep a proper covering or bridge over the flume where it crosses the street, the flume having been built before the street was laid out. If