

business himself, would without doubt, under the town by-law, be liable for a transient traders' license? C advertises the stock in his own name for sale by retail, but, finding that he would be liable for a transient traders' license before doing any retail business, takes (or is supposed to have taken) A into partnership with him in the business.

Will the fact of his having taken A into partnership with him, under the circumstances, relieve him from taking out the license?

If this relieves him it would be a very easy matter for any transient trader to evade the license by simply taking into partnership with him, any ratepayer at a very nominal percentage of profits from the business?

Yes.

Every transient trader who occupies premises in the said municipality and who is not entered upon the assessment roll, or who may be entered for the first time on the assessment roll, of said municipality, in respect of income or personal property, and who may offer goods or merchandise of any description for sale by auction, or in any other manner, conducted by himself or by a licensed auctioneer or by his agent or otherwise, before it shall be lawful for him to offer any goods or merchandise for sale as aforesaid, shall first pay to the treasurer of the said municipality, as a license fee, the sum hereinafter fixed as such license fee.

(Here follow the provisions mentioned in the municipal act relating to the license fee being applied on taxes and also relating to insolvent stocks).

Taxes—Algoma.

265.—ENQUIRER.—There is a contention in our municipality as to the legal way in which to assess the goods of a general store. Some claim they should be personal property and the building as real estate, and others contend that a business tax should be imposed, taking their authority from section 31 of the Consolidated Municipal Act, 1892, and as different meanings are construed from said section, would you kindly set forth in what way the council can levy and get taxes from merchants in Algoma, also define the meaning of section 31a of the Consolidated Assessment Act, 1892, and whether applicable in Algoma. It clearly says the council may pass by-law and impose business tax not to exceed 7½ per cent. of annual value of premises in which business is carried on. Does that mean the assessed value of buildings, and take that value and levy on stock not exceeding 7½ per cent.?

The goods should be assessed as personalty and the building as real estate. We are of the opinion that the section referred to applies to Algoma. See section 18, chap. 185, R. S. O. 1887. Section 31a appears to be plain enough. Seven per cent. of the assessed value of the premises, that is the land and buildings, gives the annual value of the premises for the purposes of this section and the treasurer's tax shall not exceed 7½ per cent. of the amount of the annual value ascertained in that way.

Public Library.

266.—J. L. E.—1. Would it be legal for the council of a town to pass a by-law changing a mechanics' institute into a free library without submitting the by-law to a vote of the ratepayers?

2. If it would be legal, what majority of the council would it require?

Under the Public Libraries Act of 1895,

section 10, the council may appoint a public library board, and under section 11, on petition of a majority of the directors of any mechanics' institute, a municipal council may appoint a board of management. Sub-section 4 of section 11 provides that no special rate shall be levied by any municipal council for purposes of a public library organized under sections 10 and 11, until the by-law has been first approved by the electors.

Section 3 of chap. 57, Ontario Statutes, 1896, provides that it is lawful for any corporation to contribute to the maintenance of a public library as such corporation may deem expedient. In appointing a public library board a majority vote is necessary, the same as an ordinary resolution of the council.

Municipalities Liability for Bridge.

267.—W. H. S.—Can the ratepayers compel the council to build a bridge that has been away one year? Said bridge has been built and in use fifteen or twenty years, and road is open for public travel. Said road is on road allowance. The bridge is an expensive one, and our council did not build it. Last year they fixed a driveway through and across the stream, so it was reasonable in summer, but not passable in fall or spring.

The course to be taken is to prefer an indictment before the grand jury against the corporation for not maintaining the bridge in an efficient state for public travel, unless there is some other road which can be used. If there is another road reasonably convenient, which can be used, the council cannot be compelled to incur an expense which in its judgment it does not deem proper in the public interest to be incurred.

Taxes on Mortgaged Real Property.

268.—CLERK, ALGOMA.—If a collector fails to collect taxes on mortgaged property, on which there were goods and chattels, can taxes be held against the property?

2. What are the exemptions from seizure for taxes?

1. Unless the municipality, by its own tactics, has put it out of its power to collect the taxes by distress, they may be returned against the property. It by no means follows that because there happens to have been goods upon the land out of which the taxes might have been made the collector can be charged with negligence.

2. The same as the exemptions from execution. For a list of these see page 22 of Glenn's Collectors' Guide.

Not a Transient Trader.

269.—CLERK.—A town has a transient traders' by-law passed. A merchant comes from another town with butter and eggs, which he sells to the stores, hotels and private houses. Is he liable to the transient traders' license?

No.

Toll Bond.

270.—J. B. B.—Who is responsible for the following: The toll-gates in this township are sold every year by auction, and the lessee has to give bonds for the payment of the rents. In the year 1895 one toll-gate was leased for 1896. The bail bonds were drawn up and signed by the lessee, but the men who were to bail him never signed the bond because they never were asked to. The council claim it was

the clerk's fault; others claim that it was the council that was to blame.

The council certainly did not do its duty. Whether the clerk was at fault depends upon whether he got instructions from the council to see that the bond was executed by all the parties who were the sureties who were to be responsible for the due accounting of the tolls.

Personal Property or Business Tax.

271.—T. B.—Are store goods assessable and a tax levied upon them the same as other property, or is it lawful to impose a business tax on the storekeeper not exceeding 7½ per cent. on the premises, in which he carries on the business?

2. And would it require a special by-law to impose a business tax or can it be inserted in the by-law, imposing the annual rate?

3. I contend it is lawful to impose a business tax; some of the members of the council and other ratepayers, among whom is the postmaster who speaks very loud in the matter, contend it is lawful to assess the premises and the goods equally alike on the cash value as goods in a building is premises?

1. Store goods may be and ought to be assessed on the basis of their actual cash value. It is personal property, but the amount owing for the goods is to be deducted from the cash value. See sub-section 21 of section 7 and section 26 Consolidated Assessment Act, 1892.

2. A business tax may be imposed. A special by-law is necessary.

3. You are both substantially right. The only difference to be borne in mind is that the liability against personal property is to be deducted from its actual cash value, whereas no deduction on that account is made in the case of real estate.

Statute Labor—Joint Assessment.

272.—TOWNSHIP CLERK.—1. A owns five houses, in one of which he lives; the other four he rents. They are assessed at the rate of \$200 each, but all grouped together, A as owner and the four tenants jointly assessed with him. The statute labor, under this arrangement, amounts to five days. Were they assessed separately the statute labor would amount to ten days. Should these properties not be separately assessed, or if assessed as they are at present are not the tenants liable for a poll tax?

2. C owns a block of three stores, which are all rented. The back part of this block has rooms rented to D. The whole block is assessed to owner and tenants, grouped together, at \$1,000. Should each tenant part of block be assessed separately and the statute labor calculated on each? If allowed to remain as they are is each tenant "not otherwise assessed" liable for a poll tax?

3. In case of railway employees, such as station agents, section boss, living on property belonging to railroad company. If not assessed as tenant and railroad company as owner for the particular part of railroad property, they occupy separate from other railroad property, are they not liable for poll tax?

1 and 2. We are of opinion that the property has been properly assessed, and that the tenants are not liable for poll-tax.

3. If the railway employee is assessed along with the railway company for the land occupied by him he is not liable for poll-tax.

Union School Section—Organized and Unorganized Townships.

273.—F. N. M.—In union school section where part of the section is in an unorganized township, how are the provisions of section 66