LEGAL DEPARTMENT.

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Tax Collectors.

The council of the township of Aldborough has instituted legal proceeding against the collector of the said township for the year 1893, and his sureties, to compel him (the collector) to return the collector's roll for the said year and to account for, and pay over a balance of some $2,900 apparently still in his possession. It appears that the same person has been the collector of the said township since 1889, and that for the past three years the balance due on the roll of the previous year has been paid out of the first taxes paid in the year current. A general straightening up by the collector being now necessary, the above suit is the consequence. The collector seemingly ran the gauntlet of treasurer, council, and the auditor without a discovery being made of the irregularities referred to. The above should be a lesson to all municipal councils, and lead them to keep a closer personal watch over all their officers, as in this way a more satisfactory performance of their public duties would be assured.

Apropos to the above, the case of the Township of Warwick v. Morris et al might be referred to like Aldborough.

The point in dispute was an item of $800 alleged to have been paid by the collector to the treasurer, Morris. Payments were made apparently in a loose and irregular way, the money being conveyed from the collector to the treasurer by the hands of various parties, some of whom had no knowledge of the amounts. The collector kept no memorandum of dates or amounts, or by whom sent, but receipts were generally given on each occasion. At a meeting between the reeve and treasurer and collector, these receipts were produced and the treasurer's accounts were shown to be some $800 short in their cash, and he is alleged to have admitted the accuracy of the accounts as they then stood. A few days after this meeting the treasurer called on the collector and asked to see the receipts again. The collector alleges that he then discovered for the first time that they were missing, and that the last he saw of them was when they were produced at the meeting where the accounts were checked off. Mr. Morris claimed that he had doubts as to an item of $800 and wanted to see the receipts. No trace of the receipts could be found, and Mr. Morris then refused to accept the settlement arrived at the meeting. Hence the action by the township to compel a settlement. The hearing of the case lasted all Monday afternoon and Wednesday forenoon. The jury returned a verdict for the plaintiff for the full amount, $800.

Legal Decisions.

COLQUHOUN VS. DRISCOLL.

This was a case recently decided by the Court of Queen's Bench of Manitoba, and was a suit in equity to have a tax sale deed of the west half of section 22-7-8 W., declared void and set aside as a cloud on the plaintiff's title. The north-west quarter was only granted by the crown on the 29th October, 1888, but it and the other quarter were sold together in 1890 for arrears of taxes for 1888 and 1889. It was held that the sale of the north-west quarter was void because the land was not subject to be taxed in the year 1888, but that the tax sale in question might have been good as to the south-west quarter but for the other objections. The learned judge, however, held that the sale was void on the following grounds: 1. That there was no record in the proceedings of the municipal council of any report to the council by the court of revision, as required by section 586 of the Municipal Act then in force. The minutes showed that the council had resolved itself into a court of revision, that the court of revision had dealt with the appeals brought before it, and that a motion had been carried, "that the court of revision do now adjourn," followed immediately by a motion, "that the council now take up the general business," but there was no mention of any report to council by the court. 2. That the rate by-law, passed by the council for the levying of taxes in 1888, was ambiguous, providing merely that a rate of six mills be struck for general purposes and other rates of so many mills and fractions of a mill for other purposes, not saying whether these mills were to be levied on each section or quarter section, or upon each inhabitant, or upon every dollar in value in property—although by section 603 of the said act, taxes were required to be levied equally on all the taxable property, in the proportion of its value, as determined by the assessment roll in force. The learned judge held that he could not assume that the rate was intended to be struck upon every dollar of value, and that enactments imposing and regulating the collection of taxes are to be construed strictly, and in all cases of ambiguity, which may arise, that construction is to be adopted which is most favorable to the subject.

CITY OF TORONTO VS. TORONTO S. R. W. CO.

The Toronto Street Railway Company was incorporated in 1861, and its franchise was to last for thirty years, at the expiration of which period the city corporation could assume the ownership of the railway and property of the company on payment of the value thereof, to be determined by arbitration. The company was to keep the roadway between the rails and for eighteen inches outside each rail, paved and macadamized, and in good repair, using the same material as that on the remainder of the street, but if a permanent pavement should be adopted, by the corporation, the company was not bound to construct a like pavement between the rails, but was only to pay the cost price of same not to exceed a specified sum per yard. The city corporation laid upon certain streets traversed by the company's railway permanent pavements of cedar block, and issued debentures for the whole cost of such work. A by-law was then passed charging the company with its portion of such cost, in the manner and for the period that adjacent owners were assessed under the Municipal Act for local improvements. The company paid the several rates assessed up to the year 1886, when they refused to pay on the ground that the cedar block pavement had proved to be by no means permanent, but defective and wholly insufficient for street upon which the railway was operated. An action having been brought by the city for these rates, it was held that the company was only liable to pay for permanent roadways and a reference was ordered to determine, among other things, whether or not the pavement laid by the city was permanent. This reference was not proceeded with, but an agreement was entered into by which all matters in dispute to the end of 1888 were settled, and thereafter the company was to pay a specified sum annually per mile in lieu of all claims on account of debentures maturing after that date, and in lieu of the company's liability for construction, renewal, maintenance and repairs, in respect of all the portion of streets occupied by the company's tracks so long as the franchise of the company to use the said streets now extends. The agreement provided that it was not to effect the rights of either party in respect to the arbitration to be had, if the city took over the railway, nor any matters not specifically dealt with therein, and it was not to have any operation beyond the period over which the aforesaid franchise now extends. This agreement was ratified by an act of the legislature, passed in 1890, which also provided for the holding of the said arbitration, which, having been entered upon, the city claimed to be paid the rates imposed upon the company for construction of permanent improvements for which debentures had been issued, payable after the termination of the franchise. The arbitrators having refused to allow the claim, an action was brought by the city to recover the said amount. It was held by the supreme court of Canada, affirming the decision of the court of appeal, that the claim of the city could not be allowed, that the said agreement discharged the company from all liability in respect to construction, renewal, maintenance and repair of the said streets, and that the clause providing that the agreement should not effect the rights of the parties in respect to the arbitration, etc., must be considered to have been inserted *ex-majori cantila*, and could not do away with the express contract to relieve the company from liability. It was further