

Consolidated Municipal Act, requires the council as soon as convenient after the annual election, to appoint assessors, and collectors; different men should be appointed to fill these offices.

Gravel Pit on Road—Line Fence—Damages—Statute Labor—Collectors Roll—Dog Tax

427—J. S.—1. Committee of Council in letting contracts for gravelling on roads of township Contractors to find the gravel, they open the pit on roadway. How close to line fence can they go before owner of property can find fault and who is responsible for any damage that may arise, that is, contractors or Council?

2. Can Council by motion order the pathmasters to return their instructions by a given time, and if not returned in said time can they collect the amount in taxes whether the work has been done or not. Work has been performed in some cases since the given time but the amount appears on collector's roll for current year?

3. Dog tax levied annually and collected and put in general fund of township. Council do not pay for sheep destroyed by dogs. Can Council be compelled to pay for sheep destroyed by dogs, from dog tax?

1. The rule of law as between adjoining landowners is that neither one is at liberty to dig so deep and so close to the line as to cause a subsidence of the surface of the land of the other. If the contractors infringed upon this rule they would certainly be liable, and if the council would avoid liability they should warn the contractors against digging so as to endanger the surface of the land of the private individual.

2. The council may, by motion, order pathmasters to return their lists at a given time, but the clerk has no authority to enter statute labor on the collectors roll until it is returned by the pathmaster as not performed.

3. Unless the council has passed a by-law declaring that the dog-tax should be maintained but that the application of the proceeds should be dispensed with as provided by section 8, of chapter 214, R. S. O., 1887, they must apply the fund to satisfy damages for sheep destroyed by dogs.

Statute Labor Commutation By-Law—Regulations as to Expenditure.

428—A SUBSCRIBER.—1. Our Councillors are submitting to the electors the question of commuting Statute Labor and substituting the payment of 75 cent per day. If the question is answered in the affirmative under the new system, are pathmasters appointed for each sub-division as they now exist and expend the money thus obtained in their several divisions, or is it customary for the council to appoint a Board of Commissioners to do this work for the whole township, and expend the same, regardless of existing sub-divisions, or is this matter optional with Council?

2. What are the regulations as to time of payment under commutation system?

1. Pathmasters should be appointed as in the past, but the council may regulate the manner and the divisions in which the commutation money shall be expended. Commissioners may be appointed and the money expended through them or the pathmasters as the council may think proper.

2. The commutation rate should be entered on the collector's as roll directed by section 94 of the Assessment Act.

Closing Street.

429—W. N.—Has a village Council the power to permanently close a street that has been travelled by the general public for over twenty years on petition of parties who have purchased all land on both sides of said street, there being ingress and egress from other streets now opened?

The council may close the street taking the proceedings provided by section 546, Consolidated Municipal Act, 1892.

Assess Promissory Notes.

430—J. L. M.—In your October number T. F. W. asks a question re Personal property, assessment of. The case stands this way. A was asked by the assessor to give him a statement of his personal property or income. A refused to give the statement. The assessor had knowledge of A holding a note for \$450 against the municipality, so he assessed him for the same. A then appealed to Court of Revision but would not give a statement of his earnings or income or his personal property, so the Court sustained the assessment. If the Court was wrong, please quote the section of Statute that governs in that behalf. The Court of Revision understood the Statute to mean notes or accounts at their face value was personal property, and that after it exceeded \$100 that the party could be assessed.

Under sec. 10, Municipal Amendment Act, 1893, as amended by sec. 50, Municipal Amendment Act, 1897. The council has limited powers to borrow money temporarily until the taxes can be collected, and to issue promissory notes to secure the repayment of the loan. These notes when issued under and within the authority of these acts are valid, and are a species of property which is liable to assessment, when the municipality issues debentures upon the security of which money is borrowed, such debentures on the land of the borrower are exempt from taxation. See sub-section 16, of section 7, Consolidated Assessment Act 1892, but we cannot anywhere find that promissory notes are exempt. See also sub-section 10, of section 2, of the same act. Assuming that the note was issued regularly the view taken by your Court of Revision, that it was personal property, is right, and that being so it is not exempt under sub-section 22, because it exceeds \$100.

Promissory Notes.

431—CLERK.—Re answer to question 383 second part. Where do you get authority for the statement that a promissory note is not personal property liable to assessment?

See answer to No. 430.

Sale of Sand or Gravel on Highway—A Correction.

432—J. M. D.—In the June No. 242, you say that a council has no right to sell sand or gravel off a road allowance. Please give Act or authority.

We find that the legislature has delegated the power to sell sand or gravel on any allowance for a public road, subject to certain provisions. See sub-section 6 of section 550, Consolidated Municipal Act, 1892.

Pathmasters' Declaration—Collector's Bond.

433—H. M.—1. Is it necessary for pathmasters who are re-appointed by a council to take the declaration of office each year?

2. If a council extends a collector's time until say June, does this effect the strength of the bail bond?

1. No.

2. No. See section 133, sub-section 1 and 2, of Assessment Act.

High School Grants and Fees.

434—1. Where a County Council grants aid to high schools as provided by section 35 of the High School Act of 1896, would a Collegiate Institute (in a Municipality separated from a County) where County pupils attend on the same terms as at other High Schools in the County come in for a proportionate share of the additional sum so raised?

2. Should money raised for High School purposes be raised by a special rate or should it be paid out of the general fund? If out of general fund how would the matter be adjusted between county and municipality that make provision for its share of the maintenance of County pupils as provided by section 31 (5)?

3. Section 37 implies that County Councils have power to regulate the fees to be paid by county pupils. Have they power to abolish the fees altogether on county pupils?

1. Upon the best consideration which we have been able to give this question, our opinion is that the Collegiate Institute is entitled to a proportionate share of the additional grant. Looking at sections 30 to 35 inclusive, it might be argued that the word "County" did not include municipality separate from it, and therefore that the apportionment was confined to the high school of the county, using the word in its more limited sense, but the latter part of sub-section 6 of section 11, referring to a high school situate in a city or in a town separated from the county says, "and such school shall for all the purposes of this act, be considered a county high school."

2. Section 3, sub-section 5 is now useless. When county councils had authority to make indiscriminate grants and determine the apportionment of the same local municipalities not in a district were, by giving the necessary notice, able to limit their liability to their share of the cost of the maintenance of county pupils. In addition to this they are now liable for supplementary grants made under the provisions of section 35 and section 31, sub-section 5 has no effect.

High school grants are raised by special or general rate as the council may by by-law direct.

3. The county is not bound to impose fees, but if it has already passed a by-law, the act says that the scale fixed shall continue in force for three years.

Great Lawyer—I am tired to death.

Sympathetic Wife—You look tired. What's been the matter?

I've been making my speech for the defense for three days now, and, tired or not, I'll have to go right along with it tomorrow, and perhaps the next day.

Can't you cut it short?

Not until the jury have had time to forget the evidence against my client.