

3. As we have stated above, the provisions of the Act do not apply to this case, and even if the circumstances were such that they did, the lands being still the property of the railway company, the latter would not be liable for the cost of any work performed thereon, under the provisions of the Act. If the proceedings are taken under the Ditches and Watercourses Act, the railway company will be only responsible for carrying out the agreement it may see fit to enter into under the provisions of the Act. In answering the above questions we are assuming that the railway in question is one under the jurisdiction of the Parliament of Canada and we may say that there are very few railways in Ontario that are subject to the Legislative Assembly of the Province of Ontario.

Returns to be Made by Collector.

273—E. D.—What is the latest date on which a collector should make his return of unpaid taxes of the previous year in order to protect himself from liability for not distraining where there are sufficient chattels out of which the taxes could be realized? Also the latest date on which returns should be made against properties whether resident or non-resident in order to comply with the statute regarding properties which may be sold for arrears of taxes?

Sub-section 1 of section 144 of the Assessment requires a collector to return his roll to the treasurer on or before the 14th day of December in each year, or on such day in the next year, not later than the 1st day of February, as the council of the municipality may appoint. Sub-section 1 of section 145 provides that "in case the collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed, as is mentioned in section 144, the council of the town may, by resolution, authorize the collector, or some other person, to continue the levy and collection of the unpaid taxes, etc." The effect of these provisions and of the judgment in the case of *Holcomb v. Shaw*, (22 U. C. Q. B., p. 92), is that so long as the collector is in possession of the roll, he can legally enforce payment of the taxes thereon by distress, and he is not bound to return the roll, until the expiration of the time for which the council of the municipality has by resolution allowed him to retain it. The collector should see that all ratepayers pay their taxes within fourteen days after notice or demand, (as the case may be), and if they do not, after the expiration of the fourteen days, he should enforce payment by distress and sale of the goods and chattels of all delinquents, if such a course be necessary. If any portion of the taxes is lost by the neglect of the collector to perform this duty he and his sureties can be held responsible. A return of the roll by the collector to the treasurer, in accordance with the provisions of sections 147 and 148 of the Act at the expiration of the time for which he has been allowed by the council to retain the roll, is all that is necessary to satisfy the

requirements of the statute in this behalf. (See also our article on "Return of Collector's Roll—Collector of Taxes on page 96 of the Municipal World for 1899).

Assessment of Money in Bank.

274—G. S. W.—As assessor of the village of M. I wish to ask you to tell me how to assess, or the proper way to assess, a man living in this village who has \$20,000 in a bank in an adjoining municipality?

By sub-section 10 of section 2 of the Assessment Act it is provided that the words "personal property" include "money." If the party referred to has no place of business he should be assessed for the \$20,000 in the village of M., where he resides. (See section 42 of the Assessment Act). If he has one place of business, he should be assessed for it, where he carries on his trade, profession, or calling. (See sub-section 1 of section 41). If he has more than one place of business he should be assessed in the manner set forth in sub-section 2 of section 41.

Liability to Build Line Fences—Reeve's Qualification—Collection of Wages.

275—RATEPAYER.—1. Does a person buying a road allowance have to help to build and keep up fences on the sides of the land that was the road allowance, or do the parties that owned the farms have to keep them up?

2. The private banker mentioned in my question No. 109, (February issue 1903) says he can be reeve, as he does not handle the money for the village, but for the treasurer.

3. A party takes a girl when she is about thirteen years old, and she lives with him until she is twenty-five years old. She receives no pay, only a few clothes. Can she collect wages before or after she becomes of age?

1. The purchaser of the road allowance and the owners of lands adjoining it, should make, keep up and repair a just proportion of the line fences, between their respective properties, as provided in section 3 of the Line Fences Act. (R. S. O., 1897, chapter 284.) If they cannot agree upon this proportion the fence viewers should be called on to make an award between them under the Act.

2. This man is handling the moneys of the municipality of which he is reeve and he has no legal right to do this and at the same time fill the office of reeve.

3. No. Unless some agreement to that effect, has been entered into between the parties. She must prove an agreement before she can recover.

Sale of Free Grant Lands for Taxes—A Discriminating Poundage By-Law.

276—P. J. F.—1. Can free grant land in Muskoka, that has been located but not improved, be returned to the sheriff and sold for arrears of taxes?

2. Municipalities in this district are doing so. Is it legal or not?

3. We have a town in about the centre of our township. They have a by-law forbidding cattle to run in said town. The cattle of said town run altogether in township, to the annoyance of the farmers living on the border of the town. In township, cattle are allowed to run, but we want to keep the town cattle from

running in the township. How shall we proceed?

1 and 2. Section 186 of the Assessment Act provides that "no sale for taxes shall be made of unpatented lands in the free grant districts where the taxes due thereon are less than \$10, if the lands have not been before the 27th day of May, 1893, advertised for sale, nor where no bona fide improvements have been made by or on behalf of the locatee," and section 188 enacts that "if the treasurer (in this case the sheriff) sells any interest in land of which the fee is in the crown, he shall only sell the interest therein of the lessee, licensee, or locatee, etc."

3. The municipality cannot legally pass a by-law discriminating against the cattle of the town people or any other particular class. A by-law of this kind should apply to all cattle of the class or classes mentioned in the by-law and should operate generally and equitably.

General School Levy Should be Raised for Each School in Township.

277—G. F.—A certain school section in this municipality has three school houses, which they keep open through the year. They have, up to date, received from the township treasurer \$150 for a general school rate for each school. Now the statute does not seem to be very plain as to this. Do you think the township is bound to raise more than \$150 general school rate for any one school section? If so a large section could go on multiplying schools indefinitely at the expense of the rest of the municipality.

Sub-section 1 of section 70 of the Public Schools Act, 1901, provides that "the municipal council of EVERY township shall levy and collect, etc, the sum of at least \$150 for EVERY public school which has been kept open the whole year exclusive of vacations," and where the school has been kept open for six months or over a proportionate amount of the said sum of \$150 at least shall be levied and collected for each such school. If the schools mentioned have conformed to the requirements of this sub-section, the trustees are entitled to receive from the township the sum of at least \$150 for EACH SCHOOL, or a proportionate part of such sum, according to the length of time over six months they have been kept open during the year.

Acting Treasurer Should not be Appointed Collector.

278—T. W. T.—C. E. Y. is our treasurer, and all cheques are signed by her, but her father G. M. Y., is the acting treasurer. Under those circumstances would it be legal for him (G. M. Y.) to be appointed collector of taxes and act in that capacity, by him furnishing separate sureties?

If the council of the municipality officially recognizes G. M. Y. as its acting treasurer, he cannot be appointed collector while acting in that capacity. See sub-section 1 of section 295 of the Municipal Act. But if he is simply acting as attorney or agent for C. E. Y. in her private capacity, we see no objection to such appointment.