

was held that a petitioning ratepayer was entitled to an order compelling the corporation to complete the first drain according to the by-law, and to an account, *the by-law having created a trust that had been violated*; also that the facts above mentioned constituted no justification of the breach of trust committed by the defendants. As to what effect the diversion of the funds in the case under review will have on the qualification of the members of the council who sanctioned it, is a matter for the decision of the court by which the matter is heard. In our opinion, however, we do not think that the facts of this case bring it within sub-section 3 of section 418 so as to work a disqualification.

Assessment and Police Commissioners in Towns.

354—M. L.—(a) What town in Ontario has commissioners of police in accordance with Section 481, Consolidated Municipal Act, 1903?

(b) Also towns having assessment commissioners as per section 286, Consolidated Statutes, 1903?

(c) Are there advantages of these commissioners over appointment by council direct?

A. Towns having commissioners of police are Galt, Brockville, Peterboro', and possibly Lindsay. All cities are required to have a police commission, but very few towns, so far as we can learn, have removed the control of the police from the council. The number of towns having a police "force," apart from one or two watchmen, is limited.

B. A number of the larger cities, Toronto, London, Hamilton, Ottawa, have assessment commissions, but we are unable to learn of any town. No returns covering either of these matters—police or assessment commissions—are received by any Department of the Government.

C. This is a matter as to which the council should exercise its judgment in accordance with the circumstances and conditions of each particular case. We cannot give an opinion that would apply to cities and towns generally.

Assessment of Occupants—School Levy Cannot be Paid Out of Poll-Tax.

355—D. D.—We have several proprietors of lots here who have a house built and occupied by themselves and families fronting on street. They have other small houses built in rear of same property. These owners pay all taxes on these houses, school taxes included, and refuse to allow these tenements to be assessed in the names of the occupants. Not being assessed individually and being all R. C. separate school supporters they are charged school subscription rates, which is very unsatisfactory.

1. Can the assessor assess these individual occupants of houses without the consent of the owner, so that they would appear on the roll as ratepayers, the owner paying the taxes if he desires, and thus avoid collecting school rates by subscription from their occupants?

2. The Department of Education states that these individuals who now pay poll tax are exempt from subscription rates. Is there any means of apportioning poll taxes to paying a portion of levy for school purposes?

The Hawkesbury Lumber Company here have 100 houses on their property occupied by employes, who are assessed individually. The company pays all the taxes apportioning the school taxes to public and R. C. Separate schools as the parties are assessed. If this could be carried out with other property owners it would save a great deal of trouble.

1. It is the duty of the assessor to assess these parties as tenants of the premises they respectively occupy. Section 20 of The Assessment Act provides that "land not occupied by the owner, but of which the owner is known, and, at the time of the assessment being made, resides or has a legal domicile or place of business in the municipality, or has given the notice mentioned in section 3, shall be assessed against the owner alone, if the land is unoccupied, or against the owner and occupant, if the

occupant is any person other than the owner." See also sub-section 1 of section 24 and sub-section 1 of section 25 of the Act.

2. No.

An Illegal Assessment and Tax Sale.

356—C. A. W.—In the year 1900 the Assessor did not comply with section 21 of The Assessment Act, Chap. 224, R. S. O., but assessed non-resident property to A., the former owner of the property, who was living in another corporation within the same county. The Assessor received no notice from A. to assess him with this property. After the assessment and before the rates were levied for that year, the property was sold to B. The collector found nothing on the property, upon which he could recover the taxes, and they were returned against the property. In 1903 the lands were sold for taxes, as would have been the case, no doubt, if the land had been assessed properly, viz.: non-resident.

1. Who was liable for the taxes, A. or B.?

2. Was it correct to return them against the property or should the collector have followed A, he still being within the county?

3. Do you consider the township in any way liable to B. for the taxes?

1, 2 and 3. A. being a non-resident and not having given any notice requesting that he should be assessed, the assessor had no right to assess him as if he were a resident, and it therefore follows that the assessment was wholly invalid, and it also follows that the collector is not liable for the loss because he had no legal right to enforce the payment of these taxes by distress, nor do we think that the township is liable to anybody. We consider the tax sale invalid.

By-Law Fixing Assessment—Assessment of Telephone Companies, Etc., on Town Line.

357—S. Mc.—1. There is a company building a stove factory in our municipality. They asked to have partial exemption by having a fixed assessment for a period of five or ten years. Has the council power to pass a by-law granting them what they ask, or will they have to submit it to a vote of the electors?

2. Where telegraph or telephone poles are placed on a town line between two municipalities should they be assessed by the municipality alongside of which they are placed, or if not please let me know?

1. Under the provisions of clause (g) of section 591a of The Consolidated Municipal Act, 1903, the word "bonus" means and includes "a total or partial exemption from municipal taxation or the **FIXING** of the *assessment of any property for a term of years.*" By sub-section 12 of section 591 of the Act all by-laws of a township council for granting aid by way of bonus for the promotion of manufactures must receive the assent of the electors of the municipality before they can be finally passed. The by-law mentioned cannot therefore be legally passed by the council until it has received the assent of the electors.

2. The town line is a strip of land lying between the two adjoining municipalities, located in neither one nor the other. The law at present contains no provision for the assessment of the poles and wires of telegraph or telephone companies erected on a boundary line between two townships, in either of the adjoining municipalities.

Bad roads have a moral and religious, or rather an immoral and irreligious aspect. They are productive of profanity and ill-temper. They keep farmers and their families from going to church. It is said that a bad road, if extended far enough, will lead to the infernal regions. Many a man could do a religious act by filling the ruts and holes in front of his farm. One bad pitch hole will cause the destruction of many a good intention. It is said that the life of the average citizen is becoming too complex—that we are travelling at too great a speed. Let us lessen the discomforts of life's rough and rapid journey by making good roads.