

Council Cannot Pass By-Law Allowing Building of Fences on Highway.

297—A. E. N.—1. Has the township council authority to pass by-law allowing owners of land along highways to set their fences over the line, where wire is used for fencing?

2. If so, state section of Act granting such authority, also the limit fences may be set out over the line?

1. No.

2. Our answer to question number one renders it unnecessary to answer this.

Payment of Expenses of Parties Quarantined.

298—C. B.—Our township has an epidemic of small-pox and we have taken all steps to prevent the spread of the disease, and the question comes up as to who has to pay the expenses of isolation, quarantine, etc. We would like to know how far the township is responsible and in what manner?

Section 93, of The Public Health Act, makes provision for the isolation or quarantining of persons infected with, or who have been exposed to any of the diseases mentioned in sub-section 1, of section 92, of the Act, and for providing nurses and other assistance and necessaries for them, at their own cost and charge, or the cost of their parents or the persons liable for their support, if able to pay the same, otherwise at the cost and charge of the municipality. Under section 57, of the Act, it is the duty of the treasurer of the municipality, upon demand, to pay out of any moneys of the municipality in his hands, the amount of any order given by the members of the local board, or any two of them, for services performed under their direction by virtue of the Act.

Police Trustees Can Pass By-Laws for the Removal of Snow from Sidewalks.

299—P. K.—The police trustees of the village of B pass a by-law, requiring property owners to remove the snow off sidewalks, and if not done by a limited time, the by-law provides that the police trustees may hire the work done, and in default of payment of the owner or occupant, the cost shall be charged, as a special assessment, against such property and will be recovered in like manner as other municipal rates. Have the police trustees the power to pass such a by-law, or should their by-law provide that in default of payment by the owner or occupant, the cost to be recovered by complaint before a J. P.?

Section 52, of The Municipal Amendment Act, 1900, repeals section 49, of The Municipal Amendment Act, 1899, and substitutes another section therefor. This substituted section empowers the police trustees of any village to pass by-laws for the purposes mentioned in paragraph 1, of section 559, of The Municipal Amendment Act. A reference to the latter will show that it relates to the passing of by-laws for, amongst other things, the removal of snow, ice and dirt from sidewalks. This section also authorizes the insertion in such a by-law of clauses "providing for the cleaning of sidewalks and streets adjoining the property of persons who, for twenty-four hours, neglect to clean the same; and to remove and clear away all snow and ice, and other obstructions from such sidewalks and streets, at

the expense of the owner or occupant, in case of his default, and in case of non-payment, to charge such expenses as a special assessment against such premises, to be recovered in like manner as other municipal rates." There is no provision for recovering the cost of doing the work authorized by the above section before a J. P.

A D. & W. Drain Without Sufficient Capacity.

300—COUNCILLOR.—My neighbor has placed a dam on his side of the line fence over a tile drain constructed under the D. and W. Act, running from my place to his and thence on road to township ditch. At the line fence on my side is a catch basin to catch surface water, but, in times of freshets, the tile does not take water, which, therefore, runs on surface over drain in a natural depression. This dam now backs water on my land. Can I cause him to remove dam and how would I proceed?

We do not gather from what is stated that any obstruction has been placed in the TILE in the drain, but that a dam has been erected to keep back the flow of surplus surface water which the tile will not carry away in times of freshets. This being the case, we do not see that you can prevent the erection of the dam, by your neighbor, to protect his land. Your only remedy is an application under the Ditches and Watercourses Act, to have the drain, or tile therein, enlarged. (See section 36 of the Ditches and Watercourses Act, chapter 285, R. S. O., 1897.) This application cannot be made until after the end of a year from the completion of of the drain.

Law as to School Assessment.

301—BARNEY.—Section 70, Public Schools' Act, 1901, requires the township council to levy and collect \$150.00 for every school that has been kept open the whole year. Section 70 requires a levy on the school section of such sums as are required by trustees. It seems to me that this is a subject upon which a good article could be written by one in possession of the required information. With such view would you kindly answer the following questions:

Under section 70 the amount is to be levied on the school supporters.

1. What constitutes a public school supporter?

2. A township being divided into school sections under section 12, Public Schools' Act, 1901, one section not having elected trustees, and having no school, are the residents in that section "public school supporters?"

3. Under these circumstances upon what part of the township shall the levy be placed:

4. The levy having been collected, what disposition shall be made of it? Is it to be paid out to each section for which it has been levied, and in such like amount, or is the levy under section 71 all the trustees are to get? Is the levy under section 71 to be in addition to that under section 70? Does section 71 cover all required by the trustees? What is the object of the levy under section 70? Is 70 known as a general levy, and 71 as a special levy? If so, what would a school debenture be called? Would not this require two columns for special rates in collector's roll? In levying these rates are they to be levied on resident and non-resident alike, or sufficiently high to collect the amount required from the resident ratepayers, leaving the non-residents as an asset to fall back upon? Suppose the trustees wanted \$300 under section 71, if this is levied upon the whole rateable

property, resident and non-resident alike, and by reason of non-resident and uncollectable taxes, there should only be \$200 collected, is the levy under section 70 to supplement it, the balance, if any, to become a township asset? Do these levies require the passage of a by-law to establish them? Under section 70 is it the whole of the previous year, or is it six months of the current year? In issuing school debentures is the township to be saddled with the expense of obtaining by-law, registering, advertising and discount on sale of debentures?

5. Arrears of taxes. Section 162, R. S. O., 1897, directs that the whole amount is to be paid at once. Does this mean that, if it has been in arrears three years, the whole amount is to be paid at once? The above is amended by 62 Vic, chap. 27, section 15, giving the treasurer power to receive payment from time to time. Does this mean that a portion of any one year's taxes may be paid to the treasurer, or the total of one year at once? If any portion may be paid less than one year's tax I do not know how it would be kept account of in the register.

1. A public school supporter is a ratepayer whose school taxes are applicable to the support of the public schools in his municipality as distinguished from those whose taxes are applied towards the support and maintenance of separate schools.

2. Yes, except such as may be supporters of separate schools in the municipality, under the provisions of the Separate Schools Act, R. S. O., 1897, chapter 294.

3. The amount required to be raised by section 70, in the township should be levied ratably against and collected from the lands of ALL the public school supporters in the township, including those in the section in which no school-house has been erected. The total amount to be levied, however, under this section, would be reduced by the sum this section would have been entitled to had a school been kept open therein for the whole year or for six months or over.

4. This amount, when collected, is to be distributed amongst all the sections in the municipality entitled to receive a proportionate part thereof as provided in section 70. If the amount to which a school section is entitled, under section 70, is sufficient for its purposes for the year, the trustees will not require the levying of any amount, by the council, upon the ratepayers of that section under section 71. The school levies under sections 70 and 71 are separate and distinct; the one is paid by ALL the public school supporters in the township, the other by the ratepayers of each particular school section. If the sum the school section is entitled to under section 70, is sufficient for its purposes, that is the end of the matter for that year. If not, then the trustees should request the council, pursuant to section 71, to levy upon and collect from the ratepayers of their school section, such additional sum as may be required.

We cannot say what the legislators had in their minds when they enacted section 70 of the Public Schools Act, but we believe that their object was to equalize the burden of school taxes amongst the