

Is four mill rate on vacant lands, when the waterworks is self-sustaining, illegal?

We presume that reference is made to the levy authorized by section 37 of chapter 235, R. S. O., 1897. If this is so, the corporation is empowered by this section to levy a rate not exceeding four mills in the dollar *upon the several properties, according to the assessed value thereof, fronting or abutting upon the street in, through and along which the waterworks mains are laid, as well as all other properties which may enjoy the advantage of use of water from the said main, distant not more than 300 feet therefrom for the purpose of protection against fire, etc.*, for the purpose of ASSISTING in the payment of any debentures issued for the purpose of waterworks constructed under the provisions of the Act. We do not see what power the council had, under this section, to levy the four-mill rate on vacant lands only, as it gives authority to make the levy, if needed, on ALL properties in the locality. This would not empower the council to discriminate in favor of occupied lands. Section 38 of the Act directs that subject to the provisions of section 36, all the revenue arising from the supplying of water, or from the real or personal property connected with the waterworks, shall form part of the general funds of the corporation. Section 36 makes the debentures for money borrowed for the purposes of the waterworks a charge on the property. We are therefore of opinion that if the revenues derived from the operation of the waterworks are sufficient to meet the cost of their maintenance, and the payments on debentures for money borrowed, and interest, as they accrue from time to time, and especially if these revenues produce a surplus, that the levy authorized by section 37 cannot legally be made by the council of the town.

#### Clerk's Salary and Allowances.

191—A. W.—Our clerk was appointed by the council for the year 1904 at a salary of \$90.

1. Can he charge extra for selecting jurors, drawing by-laws for closing road and posting up notices for the same and making a detailed statement for D. R. O.?

2. For postage and stationery, registration of births, marriages and deaths?

3. For holding municipal elections, calling Board of Health?

4. For holding Judge's Court re voters' list?

The council did not agree to pay him anything extra for doing these things at the time he was appointed, but he claims pay for doing them. Is he entitled to it?

1. If the by-law appointing officers for 1904, amongst others, appoints a clerk at a salary of \$90, without specifying the services he is to perform for that salary, it will be presumed that this sum is intended to pay him for such services as he is called upon to perform for the council, and not such other duties as are imposed upon him, by some statute other than The Consolidated Municipal Act, 1903, for the performance of which a fee is allowed him. If the council intends that the salary mentioned in the by-law appointing its clerk, should include pay for ALL the duties he is called upon to perform in his capacity of clerk of the municipality, this should be specifically stated in the by-law appointing him. Section 159 of chapter 61, R. S. O., 1897, provides that the selectors of jurors under section 17 of the Act shall for every selection and distribution of jurors, and the report thereof made by them, be entitled to such sum of money as is authorized to be awarded them by the councils of the municipalities of which they are respectively officers. If the by-law in this case does not specify that his salary is intended to cover the fee thus allowed him as a selector of jurors, the council should allow him a reasonable sum for doing this work in addition to the \$90. It is not part of a clerk's duties to prepare special

by-laws for his municipality such as this one. The council should employ a lawyer to do this work. It is part of the clerk's general duties to post up, or cause to be posted up, the notices mentioned in section 632 of The Consolidated Municipal Act, 1903, without extra pay, but he is entitled to any disbursements thereby necessitated. We do not know what is meant by "a detailed statement for D. R. O."

2. The clerk is entitled to be paid all his lawful disbursements for postage and stationery, and other necessities pertaining to the duties of his office, and unless the by-law appointing him provides otherwise, he is entitled to his fees for the registration of births, marriages and deaths, as provided by section 36 of chapter 44, R. S. O., 1897, in addition to the nominal salary stated in the by-law.

3. These services are part of the ordinary duties of the clerk, and are covered by his salary.

4. Unless the by-law appointing the clerk provides that the sum to be paid him by way of salary as clerk is intended expressly or impliedly to include payment for all duties as clerk and under The Voters' Lists Act (R. S. O., 1897, chapter 7,) to be performed by him, etc., he is entitled to be paid the fees mentioned in section 28 of the last mentioned Act, in addition to the salary fixed by the by-law.

#### Regulation as to Use of Books in Free Library.

192—G.—Our village corporation under part 2, Public Libraries Act, some years ago took over the old Mechanics Institute library. Quite a few non-residents are owners of property within the corporation, consequently are assessed and pay taxes toward the keeping up of the library. The library board refuse books to such taxpayers without a monthly or quarterly fee, while the residents get their books free. Are not all electors (part 2, section 18) entitled to equal rights to books from the library?

The provisions of The Public Libraries Act (R. S. O., 1897, chapter 232,) are somewhat obscure in this regard. Section 22 provides that "every public library established and every mechanics' institute transferred to a board of management, under Part II. of this Act, shall be open to the public free of charge." The Act places no restriction on the general meaning of the word "public." Section 17 of the Act provides that "every board of management so appointed shall discharge similar duties with respect to public libraries organized under Part II. of the Act, to those possessed or discharged by the boards of management of public libraries organized according to Part I. of the Act." Sub-section 1 of section 11 of the Act empowers the board to make regulations for the use of the library reading-rooms and museum, and for the admission of the public thereto. On the whole we are of opinion that the board may limit the right to take books out of the library to residents of the village.

#### Method of Delivering Mails — Liability to Build Road to Station — Assessor's Fee for Attending Court of Revision — Right of School Board to Vote at Meeting of Mutual Insurance Co.

193—C. O. D.—1. Can a railway company put a catching post for mail and a flag station anywhere along the line where there is no road or lane to the station. Is it compulsory to build a road to the aforesaid station by the municipal council of the township out of the township moneys?

2. If the owner of the land where the station is situated should give a road allowance and make it a public road will it be compulsory then for the council to build the road and maintain the same on account of the mail being taken on and off at that place, as well as passengers?

3. Can the assessor for the municipality charge for his attending the municipal court of revision on the assessment roll, and also for attending the judge's court on the voters list?

4. When a school house is insured in a mutual fire insurance company, has the secretary-treasurer of the school section a right to vote at the annual meeting of the company, has any of the trustees a right to a vote at the annual meeting?