

Is it the duty of the proprietor of the mill to repair it, or of the council of the township?

If the road in question is a public highway the council must keep the bridge in repair. If it does not do so and injury is sustained through want of repair the municipality will be liable in damages.

Tax on Land Connected With Church.

363.—J. R.—In the case of "land used in connection with a place of worship," which may be assessed for "local improvements," has the clerk any right to charge school taxes, or county taxes against such lands?

No.

Township Taxes Paid to Treasurer.

364.—H. S. M.—1. Have municipal councils in rural municipalities when the taxes are collected by a collector, power to add a percentage to all taxes unpaid at a certain time, say 15th December? Please give chapter and section bearing on the case.

2. Have rural municipal councils power to make all taxes payable at treasurer's office?

3. Do you know of any rural municipalities where they are collected by treasurer at his office? How does it work?

1. Yes. See section 60, R. S. O., 1897, chap. 224.
2. Yes. See section 60, R. S. O., 1897, chap. 224.
3. We have no information.

Streets in Plans of Sub-Divisions of Lots or Highways.

365.—G. W. T.—A certain plot of ground has been laid out into building lots and registered, and is still used for agricultural purposes. A roadway has also been laid out through said plot. Is the roadway still constituted a highway according to the definition of highways in the Municipal Act? And can it be opened up for that purpose contrary to the wishes of the owner?

Sufficient facts are not furnished to enable us to express an opinion upon this question. Section 39, cap. 181, R. S. O., 1897, provides that all allowances for road or streets laid out by companies or individuals and laid down on plans thereof, and upon which lots of land fronting on or adjoining such roads, etc., have been or may be sold to purchasers shall be public highways, etc. Section 110 of chapter 136, R. S. O., 1897, declares that in no case shall any plan, etc., although filed and registered, be binding on the person so filing or registering the same, unless a sale has been made according to such plan, etc. A reference to these sections will enable you to readily see that you have not given us sufficient facts to enable us to say whether this road has become a public highway. You should give us the date of the plan and its registration, whether this road is shown on the plan, and whether sales have been made of lots upon it; what action the council has taken in regard to it, and whether public money has been expended on it. Unless the owner is estopped by reason of his own dedication, his land can only be expropriated under the formulation provided by the Municipal Act and compensation allowed to him.

Re Collection of Poll-Taxes.

366.—J. R. K.—In R. S. O., 1897, chap. 224, section 97, commencing at the word "to"

in the seventh line thereof it reads, "to be levied and collected at such time, by such person and in such manner as the council, etc., may by by-law direct."

1. Would it be legal to appoint a collector of the poll-tax to collect at any time during the year, that is continue his collections throughout the year? The object is to make those pay who may be away when the assessor goes round but come back later, and who are consequently not on the roll.

2. Can the by-law authorize the collector to collect from all and everyone in the municipality as he may discover them, whether their names are on the assessment roll, but without any property qualifications; or not on the roll at all, but who are justly entitled to pay this tax?

3. Is the enclosed by-law correctly drawn and is it legal?

BY-LAW NO. —.

A by-law to appoint a collector of the poll-tax of the town of Renfrew and to determine the manner and time for the collection of the same.

Whereas it is expedient to appoint a collector of said tax and to determine the manner in which it shall be collected.

Therefore the municipal council of the corporation of the town of Renfrew hereby enacts as follows:

1. That _____ be and hereby is appointed collector of the poll-tax of the town of Renfrew.

2. That said collector is hereby authorized and required to collect the said tax as provided for in Revised Statutes Ontario (1897), chap. 224, sec. 97, from every male inhabitant of the town of Renfrew of the age of 21 years and upwards and under 60 years, "and not otherwise exempted by law from performing statute labor," who has not been assessed on the assessment roll of the town of Renfrew or whose taxes do not amount to \$2.00.

3. That said collector shall collect said tax at such times during the year as he discovers persons in the municipality of town of Renfrew who are liable for said tax.

4. That said collector shall keep a strict account of all collections made. Said account shall contain the names of persons paying said tax, and the date upon which it was paid.

5. That said collector shall make monthly returns of his collections to the treasurer of the town of Renfrew.

6. This by-law is enacted under the power granted to municipal councils in R. S. O., 1897, chap. 224, sec. 97.

7. That any person convicted of refusing or neglecting to pay the aforesaid yearly poll-tax shall forfeit and pay, at the discretion of the convicting magistrate, a penalty not exceeding the sum of \$5.00 (five dollars) for each offence, exclusive of costs, and in default of the payment of said penalty and costs forthwith, the said penalty and costs, or costs only, may be levied by distress and sale of the goods and chattels of the offender, and in case of there being no distress found, out of which such penalty can be levied, the convicting magistrate may commit the offender to the common goal of the county of Renfrew, with or without hard labor, for any period not exceeding ten days, unless such penalty and costs be sooner paid.

8. That this by-law go into force immediately after the passing thereof.

1. Yes.
2. Yes.
3. The by-law is, we think, legal. Clause 5 is not literally the same as section 107, but it does not appear to provide for any distress or punishment in excess of what is authorized by section 107. In all cases of this kind it is better to adhere literally to the words of the statute.

Expropriation of Gravel.

367.—F. M.—1. Is it within the powers of a township council to pass a by-law, under the provisions of which they can enter upon lands and take gravel for road purposes at a price of say 7 cents per yard, without the consent of the owners?

2. If not what are the powers of township councils in the matter? In this township some are quite willing to sell gravel at 7 cents per yard, others want 15 cents.

1. Under Sec. 640 (10), Chap. 223, R. S. O., 1897, township councils have the right to pass by-laws for searching for and taking such gravel within the municipality as may be necessary for keeping in repair any highway within the municipality. The by-law should specify the location of the gravel, and the quantity expropriated. The price and the rights of entry are to be settled by arbitration, if not agreed upon by the parties.

By-Law Opening and Closing Road.

368.—J. H.—About 9 years ago there was a petition to the council of McDougall Township, Ont., to establish a road in place of 8th and 9th concession line which was impracticable. The council had it surveyed, advertised and put up notices that a by-law would be passed. No one came to the meeting at that time to object to the by-law, and it was passed and registered at that time, giving boundaries as described by surveyor. Since then another man bought one of the lots that the road runs through, and he objects to the road. This year he is one of the council. He and the reeve and one other councilman have passed a by-law to repeal a part of the by-law that established the road, though some of us served them with notices of objection, and that if they did we would appeal to the courts to have it set aside.

1. Can they close part of that road? It is needed for some to get to school.

2. If not, who is liable for costs?

3. How will we proceed to have it set aside?

1. Assuming that the proceedings were regular, and that the road became a public highway by force of the by-law, it could only be closed under the like formalities as it was opened, that is under the conditions required by section 632 of chapter 223, R. S. O., 1897.

2. What costs?

3. By application to the courts to quash it.

Village Municipality and Waterworks Company.

369.—J. B. H.—Can the council of a village municipality, without the consent of the ratepayers, invest a waterworks company, formed under R. S. O., 1897, Chap. 199, (a) with power to compel any ratepayer to take the water, (b) with power to collect water rates by distress, (c) with power to make water rates a charge on land, to be collected by the municipality in the same way as taxes for the benefit of the company, (d) with power to compel the owners of lots which are not built upon to pay water rates for same?

We do not think that the council can confer any of these powers upon this company either with or without the consent of the ratepayers. The powers and duties of the company are to be found in section 20 and following sections of chap. 199. A municipal council may by by-law confer upon a company formed under this act, the powers contained in sections 4, 11, 12 and 14 of the Municipal Waterworks Act, but these powers are entirely different from the powers above mentioned.