

2. Should they be taxed for the share of the county rates applied to "municipal equivalent to the special legislative grants." When the board of health of a township quarantines a family for scarlet fever or other contagious disease and appoints a person to see that they are supplied with necessaries.

3. Who is responsible for this person's fees, the family quarantined in the township, provided they are able to pay?

4. Provided the township has to pay the person, who should pay him for the use of his horses, the party quarantined having horses which could have been used?

1. Yes. Sub-section 2 of section 70 of the Public Schools Act, 1901, as enacted by section 19 of chapter 51 of The Ontario Statutes for 1907 provides that this rate shall not be levied on the taxable property of the public school supporters of the township "included in urban municipalities or annexed to urban municipalities for school purposes."

2. No. Sub-section 1 of section 70 of the above Act as enacted by section 19 of chapter 51 of The Ontario Statutes, 1907, provides that this rate shall not be levied against the taxable property of the county "included in urban municipalities, or annexed to any urban municipality for school purposes."

3. The parents or parent of the person afflicted, or such other person or persons as is or are liable for his support, if they are financially able to pay the amount. If, owing to poverty or any other cause, they are unable to pay the amount, the municipality will have to bear and pay it. (See section 93 of chapter 248, R. S. O., 1897.)

4. If the person appointed to look after the afflicted family found it necessary, in order to effectually perform his duties, to use his horses, and the municipality has to pay the account, we are of opinion that it should also pay a reasonable sum for the use of the horses. The person taking care of the family was not bound to use their horses instead of his own, unless this was part of the arrangement entered into between him and the local board of health.

Council Cannot be Compelled to Remove Nuisance.

486—I am living in an unincorporated village in the township of A, P county. My house is about two feet from the line between my lot and that of my neighbor. Within the last two years he has built a barn within three feet of the same limit. It stands so close to my house that the sunlight which I formerly enjoyed cannot reach my windows. He also keeps a horse, cow, calf, and some poultry in this barn. At times the odor is so bad that I am compelled to close all my windows and doors. In warm weather it is always most unpleasant. Not satisfied with this, he has lately, during my absence, filled in the space between his barn and the line with earth, raising it so as to throw all the water falling from his roof over on my lot next to my house.

Can I compel the municipal authorities to take action in this matter, or must I put up with it?

The municipal council has no authority to interfere in a matter of this kind. If what the neighbor has done amounts to a nuisance, or is likely to impair the health of owners residing in the vicinity, complaint should be made to the local health authorities, who will probably see that the nuisance is abated. If one owner, by conducting water from his premises to those of the other, has occasioned damage to the latter, he has a right of action against the owner offending for the amount of the damages he has sustained, and to restrain him from causing similar damage in the future.

Collection of Fees From Non-Resident Property.

487—H. S.—A non-resident has four children he wants to send to school; he won't come into the section and pay so much per head per month either. He has just rented a place in section (although he did not move and live on this lot he rented), containing three acres of a clearance, rest bush and stony land not fit for farming purposes. He thinks by renting this farm he is entitled to the education of his children by paying taxes only on his rented farm. Rest of farms in this section has from 20 to 100 acres of clear-

ance. As secretary-treasurer of school here, I have refused having his children educated here by saying it is not right and fair or equal to other ratepayers. I said if the farm he rented was equal to the other farms in this section as far as the amount of taxes was concerned, his children would be educated. But under the circumstances and conditions I am bound to collect so much per head per month for his children, and ratepayers say I am doing right.

Please give me your idea if I am doing right or wrong in refusing the education of his children unless he pay so much per head per month, and when we get the taxes from owner or tenant of rented farm in the fall we will see what it costs per head per year to educate the children here, and if he pay so much per head per month and taxes, if anything due him will refund it. Will this be fair and right?

These pupils are children of a non-resident, and if the fees required to be paid monthly to the trustees of the school section, the school in which his children attend, together with the taxes he pays to such school, do not exceed the average cost of the instruction of the pupils of such school, we are of opinion that the trustees are acting in accordance with the provisions of sub-section 2 of section 95 of The Public Schools Act, 1901. (See sub-section 4 of this section, when the property of a non-resident is assessed for an amount equal to the average assessment of residents.)

Vote Necessary to Carry Bonus By-law.

488—J. C.—What vote is necessary to carry a by-law in a township for raising money by debentures to loan to a manufacturing establishment? Will say 200 qualified to vote.

Section 366a of The Consolidated Municipal Act, 1903, provides that the assent of two-thirds of all the ratepayers entitled to vote on the by-law is necessary, unless the number of ratepayers voting against such by-law does not exceed one-fifth of the total number entitled to vote, when the assent of three-fifths only of all the ratepayers is necessary.

Assessment of Superannuation Allowance.

489—J. D.—On pages 9 and 10 of *Assessors' Guide*, the following appears: "The income of a superannuated civil servant of the Dominion Government is not exempt from assessment and taxation, and the Provincial legislature has authority under the British North America Act to impose such an assessment. (*Bucke v. City of London*. Not yet reported.)

Would you kindly advise me if the above would apply to retired judges of division courts, and if such may be termed retired public officers, and assessable for income received as superannuation less exemption of \$1,000.

We are of opinion that the reason for the decision in *Bucke v. City of London* (10 O. L. R., 628) applies to the case of a superannuated County Court Judge, and that his superannuation allowance is assessable as income.

Duties of Pathmaster.

490—D. W. R.—1. Has a pathmaster power to furnish material for roads from his own quarry without consent of council?

2. Can he collect pay for same from treasurer of the municipality without an order from the reeve or council?

1. No, for the reason that his personal interest would clash with his duty to the municipality.

2. Only to the extent of such commutation moneys as he is entitled to expend in his road division, and notice of which he has received from the clerk of the municipality, as provided in sub-section 2 of section 15 of chapter 25 of The Ontario Statutes, 1904.

Liability for Building Line Fence.

491—J. C. B.—Two men own adjoining farms, which have not been occupied only for taking wood off. One man wants to have his farm fenced off for pasture and the other does not and offers to allow the other man to let his cattle run on his land.

Can the first man compel the other man to erect half of his fence if he does not wish to occupy it at present, and if the first man, after giving notice to the second to build his share, builds the whole of the fence, can he compel the other man to pay for one-half?