

Quarantine Expenses—Statute Labor on Store and Stock.

340.—W. M.—In 1894 there was an outbreak of diphtheria in this township and several places were quarantined, and during the quarantine the township Board of Health furnished the parties, which are all ratepayers and in fair circumstances for this country, with all the necessities they required from the stores, which was charged to the Board of Health by the storekeepers, and the council paid the bills as rendered and kept an account against the parties who received the goods, and after about a year rendered an account to the parties in detail, and they one and all promised to pay up but have not done so, claiming now that the account should have been placed on the collector's roll and collected as taxes and some of them dispute the accounts on the ground that they did not get all the goods they were charged with. One party now claims he was kept under quarantine too long to his damage. The total amount in question is \$76.

1. Can the council collect those bills?
2. If so, can they be put on collectors roll of 1898?

3. If not, can they be collected by division court that is, sued and collected?

4. A owns a store and stock in road division E and rents a farm in road division K. In computing for statute labor can the whole assessment be computed as one sum, it being computed separate on the roll by the collector?

1. If the parties are able to pay we think the council can recover. Where a party is from poverty unable to pay the expense must be borne by the municipality. See section 93 of the Public Health Act.

2. No.

3. Yes, if the parties are not persons who can be said to be unable to pay.

4. Yes.

Cattle on Highway—Herding Damages.

341.—R. H.—Will you kindly furnish what information you have,

1. Relative to the rights of individuals re herding of cattle, also what redress a property owner, having shade trees destroyed by cattle while nominally herded, has and to whom must he look for damages. For instance say fifty head of cattle are roaming over a piece of commons in charge of a small boy, some of these cattle do considerable damage to private property. Who is responsible? The ownership of those particular cattle doing the damage cannot easily be located. The by-laws of this municipality allow of cattle being herded; a number of people are suffering from laxity in herding.

2. Where can any information be obtained as to rights of individuals driving cattle along the public highway to pasturage? Is it a breach of any statute and if so which, and where may same be found, for an owner in leading a bull or entire horse well under control, to allow same to graze during its transit from owner's stable to or from said pasturage, and if there is any limit to the time of said grazing. There is nothing in the by-laws of this municipality covering these points.

3. Can you assist in getting at the saving to this municipality by withdrawing from the county which was voted on by the ratepayers at our last municipal election, but which does not take effect until January, 1899? Can we still remain connected with the county in face of this by-law at the wish of a minority?

1. The owner of the cattle which did the damage, and, therefore, in order to succeed, the person claiming damages must prove whose cattle did the damage.

2. Under sub-section 9 of section 559, cap. 223, R. S. O., 1897, councils of

cities, towns and villages may pass by-laws for preventing the leading riding or driving of horses or cattle upon sidewalks or other places not proper therefor, and sub-section 2 of section 546 of the same Act empowers councils to pass by-laws for restraining and regulating the running at large of animals. At common law it was not unlawful for horses and cattle to be at large on the highway. The case which you put is not one of cattle being at large, and therefore we do not think there is any remedy to prevent what is being done.

3. We cannot say whether there will be any saving to your municipality by separation or not. Assuming that the by-law is valid, and as soon as the time at which it was to take effect arrives your municipality ceases to form part of the county, and we cannot see what the wish of the minority can have to do with it.

Wards Abolished—Polling Division—Election Trustees.

342.—SUBSCRIBER.—By new statute we have no wards for 1899 municipal elections.

1. Will we have three polling sub-divisions and deputy-returning officers?

2. How will the sub-divisions be designated?

3. How will the public school trustees be elected and how will a voters' list for each ward be prepared? Give full particulars.

1. There should be polling sub-divisions as provided by sections 535 and 436, cap. 223, R. S. O., 1897.

2. By numbers 1, 2, etc.

3. See sections 57 and 58 of the Public Schools Act, chapter 292, R. S. O., 1897.

Changing Hall Site.

See No. 319.

343.—TOWNSHIP CLERK.—1. Council do not propose to exchange hall site but to purchase a new and sell old site. What is there to preclude their doing so? See section 534 and subsequent sections, chap. 223, R. S. O.

2. If council can build hall without assent of electors, surely they can pass by-law without assent to pay for hall when built. I infer from yours that they cannot, and you refer me to section 389, chap. 223. Does this section apply to others than county councils? Also would refer you to section 384 of same act and sub-sections.

3. Suppose council build and include costs in estimates for this year. I suppose they can do so, so long as rate struck does not exceed two cents on the dollar exclusive of school rates. See section 402.

1. We are of the opinion that the council can sell the old site and use the proceeds to buy a new one.

2. Section 389 is not at all confined to county councils. The intention of the legislature is not to be gathered by reading one section alone, but all sections bearing upon the subject in hand.

3. You did not state in your former question whether it was proposed to put the cost of the hall in this year's estimates. If that is the intention, the only question to be considered is whether the cost of a town hall can be regarded as ordinary expenditure within the meaning of section 389. To avoid any question about it, would it not be better to submit the matter to the electors? We consid-

ered all the sections to which you refer, and after giving them the best consideration we could, we think, that under sections 534 and other sections referred to the hall may be built and money provided out of this year's rates if it does not exceed two cents in the dollar.

Errors in School Section By-Law.

344.—X. Y. Z.—1. A township council in the month of May passes a by-law forming a new school section. The councilman introducing the matter by a clerical error, acknowledged by all the members of the council at the next meeting in June when the by-law was up for signature, omitted several lots. Application was made for rectification and on ruling of clerk was disallowed. Was this in order?

2. By-law, as above, having been passed, signed, etc., new section want to go ahead and put up their school. Application was made for council to issue debentures to cover cost of same. This was denied. Was this in order?

1. Sub-section 2 of section 38, Public Schools Act, empowers township councils to alter the boundaries of a school section, etc., and sub-section 3 provides that any such by-law shall not be passed later than the 1st day of June in any year, and shall not take effect before the 25th day of December next thereafter, etc. You do not state the date in June on which the council met. If it was after the first of June the by-law could not be altered by the council. It is too late now to rectify the error, and it is unnecessary to consider the question whether the council would have had power to rectify the error before the 2nd of June, though we are inclined to think it would have the power to rectify the purely clerical error because the parties interested or affected would not be in a position to complain upon the ground that they had no notice of the intention of the council to make the change finally made.

2. As the by-law does not take effect until the 25th of December next, we cannot see how the council can be compelled to issue debentures at present.

Wards Abolished in Townships.

345.—Our township is divided into wards, how will council for 1899 be elected. See sec. 73 of chap. 223, R. S. O., 1897, as amended by 61 Vic., chap. 23, section 4. See also section 101, R. S. O., chap. 223, not repealed.

All township councils will be elected by general vote.

Pathmaster.

346.—SUBSCRIBER.—A was appointed pathmaster under by-law, and has not acted. No statute labor done in his division. What action should council take?

The council should appoint some one else in his place, and have such other person instructed to see that the statute labor is performed and a proper return made. We would suggest that your council shall pass a by-law that persons appointed to any office and refusing to act should pay a certain fine, and then prosecute such officers so refusing to act under the by-law.