

5. In this part of N. district the surveyors in surveying the townships simply blazed out the concessions and sidelines for the purpose of laying out lots. Each locatee has to pay the Crown fifty cents per acre for the road allowance, as well as for the balance of the lot. Five per cent. is reserved for roads. Can the municipal council deviate a road around a rock on a lot without compensating the locatee, as per chapter 26, section 2, 1898? Not over three per cent. would be required to be taken off the lot for roads. The lot has been sold to the locatee by the Crown, but is unpatented yet. Would section 3 also apply?

1. We do not think the local treasurer has the power. He may receive taxes between the time the roll has been returned to him by the collector and the date of his sending to the county treasurer the statement mentioned in section 116 of the Act, as provided by section 119, but no authority is given him to make a distress to realize the amount. Section 141 applies only to the county treasurer.

2. Yes, unless they are the property of the person taxed, or of the owner, though his name does not appear on the roll—in this event there is no exemption (see sub-section 4 of section 103 of the Act).

3. The existence of this by-law does not interfere with the authority of the collector to distrain to realize the amount of any taxes remaining unpaid for fourteen days after notice or demand made or given pursuant to sections 99, 101 or 102 of the Act.

4. This is apparently a party line, less than twenty-five miles in length, and is therefore exempt from assessment under sub-section 3 of section 14 of The Assessment Act, 1904.

5. The sub-section referred to does not appear to be now in force. It was originally enacted as sub-section 2 of section 121 of the former Assessment Act (R. S. O. 1897, chapter 224). This Act was repealed as shewn in schedule M. appended to The Assessment Act, 1904, and sub-section 2 of section 121 was not re-enacted in the Act respecting statute labor (chapter 25 of the Ontario Statutes, 1904). We are of opinion, however, that the council of the municipality may open and establish the road required by by-law passed under section 637 of the Consolidated Municipal Act, 1903, after having observed the preliminary proceedings prescribed by section 632 of the Act.

Though the Crown has reserved five per cent. for roads, we have been unable to find any statute giving a municipal council power to take advantage of the reservation, and in the absence of such power we cannot see how a municipal council can obtain any reduction from the value of the land actually expropriated for road purposes.

Declaration of Office of Poundkeepers, Etc.

125.—J. G. B.—Are poundkeepers, fenceviewers, medical health officers and members of boards of health legally qualified to act—they having been appointed by regular by-law, but have not signed declarations of office.

Poundkeepers and fenceviewers should make the declaration of office mentioned in section 313 of The Consolidated Municipal Act, 1903, but their failure to do so does not render their acts illegal. Medical health officers and members of boards of health are not required to make any declaration of office.

Qualification of Voters on By-Law Exempting From Taxation.

126.—A. A. H.—At the last municipal elections the ratepayers of this town voted upon a by-law granting a manufacturing establishment exemption from municipal taxation for 10 years. By section 591a, sub-section g of The Consolidated Municipal Act, 1903, this exemption amounts to a bonus. By section 591, sub-section 12a, it is provided that no such by-law shall be passed until the assent of the electors has been obtained in conformity with the provisions of the act in respect of by-laws for granting bonuses to manufacturing industries. The question I would like you to answer, is, who were entitled to vote on this by-law? Under section 353 and 354 of The Municipal Act, R. S. O., 1897, chapter 223, any by-law requiring the

assent of the electors had to be voted on by the persons qualified under those sections. These sections were, however, amended by The Municipal Amendment Act, 1903, (3 Edward VII., sections 75 & 76) by adding the words "for contracting a debt which requires" and these words are to be found in The Consolidated Municipal Act, 1903. A by-law exempting a manufacturing establishment from municipal taxation, except school taxes, cannot it seem to me be properly described as a by-law creating a debt. Section 366a, defines the requisites to the validity of a bonus by-law and states that a certain proportion of the ratepayers who are entitled to vote on the by-law is necessary to carry it. Under The Municipal Act of 1897 it was quite clear that this meant the persons entitled to vote under sections 353 and 354. It seems to me that the difficulty which now confronts me arises from the amendments to sections 353 and 354 not being considered in connection with the sections relating to bonuses to manufacturers and made to harmonize therewith. The Municipal Act, it seems to me, does not require a by-law making a gift of money to a manufacturer which would clearly require the issue of debentures, and by a by-law creating a debt, to be voted on by one class of electors, and a by-law granting exemption from taxation to be voted on by another class of electors. On the other hand, there is the difficulty, as it seems to me that the by-law is not one for contracting a debt.

We are of the opinion that sections 353 and 354 apply to a by-law granting an exemption from taxation. The Legislature has not expressed its intention either clearly or aptly, but it is clear that such a by-law as the one here must receive the assent of ratepayers, and it seems to us that the Legislature intended that the ratepayers qualified under sections 353 and 354 are the ratepayers entitled to vote on such a by-law as this.

A School Audit.

127.—L. S. T.—Trustees of a rural school section presented their report and financial statement without the signatures of themselves or the auditors, to our annual school meeting which the ratepayers rejected by resolution.

The auditors presented no written report, but stated they had examined the collector's roll and found the council had added \$50 to trustees' requisition, which was \$150, thus making it \$200, collected the \$200 from the ratepayers of our section as school tax for 1906, deducted the \$50 they had added and placed it in the general funds of their municipality, then paid the balance (\$150) to the trustees.

The minutes of the annual meeting, also the unsigned trustees' financial statement, were laid before our inspector, who took no action further than to state that it was no concern of the trustees or auditors if the council had added \$50 to trustees' requisition, and when collected placed it in their general funds, so long as the trustees had got the full amount of their requisition, that is \$150. By making the above statement, the inspector induced one of the auditors to sign a report, stating that the unsigned and rejected trustees' financial statement was correct.

1. Was the council justified in adding the \$50 to trustees' requisition?

2. They having done so and refuse to refund it to the trustees, whose duty is it to collect it, and how should they proceed?

3. What was the inspector's duty on receiving the rejected trustees' report and no auditor's report?

4. Was he right in his contention in stating that it was no concern of trustees or auditor what amount council added to requisition?

5. Was he justified in asking auditor to sign the above report in his office when it had never been submitted to the ratepayers?

6. What action, if any, should the ratepayers take in regard to the above report?

1. We do not think so.

2. This money was apparently wrongfully collected from the ratepayers of the school section and belongs to them. The money was not collected by the council for school purposes, and therefore we do not think the trustees can recover it from the council. If the council refuses to refund it on request we are of opinion that each ratepayer can recover the proportionate part he has paid by ordinary action at law.

3. The Inspector's duty was to decide any matters in difference between the auditors in reference to the school accounts as required by sub-section 2 of section 23 of The