

1. The council was not BOUND to submit this question to the electors, but could have passed a by-law providing for the erection of a township hall of its own motion, pursuant to sub-section 1 of section 534 of The Consolidated Municipal Act, 1903. Since the enactment of section 105 of chapter 18 of The Ontario Statutes, 1903, however, it has been optional with a township council as to whether it submitted a question of this kind to the electors or not. It will be necessary to submit the by-law to the electors before its final passing by the council, for the raising of the amount and the issue of the necessary debentures securing its repayment. (See sub-section 1 of section 389 of The Consolidated Municipal Act, 1903.)

2. Sub-section 1 of section 11 of chapter 60, R.S.O., 1897, provides that "the municipality in which a Division Court is held shall furnish a court room and other necessary accommodation for holding said court, not in connection with an hotel." Sub-section 3 provides that "where a municipality, etc., furnishes a court room and other necessary accommodation for a Division Court as aforesaid, etc., it shall be entitled to recover from any other municipality wholly or partly within the division for which such court is held, such reasonable share of the cost of providing accommodation for holding the court as shall in that behalf be decided and ordered by the Judge of the said court, etc."

Adoption of Previous Year's Assessment in Districts—Expenses of Indigent Lunatic.

92—T. W. M.—1. Is it legal for our council to adopt the assessment roll for 1903 for the following year without appointing a new assessor?

2. Can our council be compelled to pay for either board or expenses in any way of a lunatic living in another township at the time she was taken crazy, she having worked in our township some months before. If so, can we get our money back?

1. Yes, since this township is in one of the territorial districts. Sub-section 1 of section 42 of chapter 225, R.S.O., 1897, provides that "the council for the year following the return of the first assessment roll may by by-law adopt the assessment therein, as finally revised, as the assessment for that year." And sub-section 2 provides that "the council may by by-law alter and fix the time for making the assessment in the municipality, and may by by-law adopt the assessment of the preceding year, as finally revised, as the assessment (subject to revision, as herein provided for in the case of the first assessment) on which the rate of taxation for that year shall be levied, etc."

2. The council is not in any way responsible for this account.

Power to Take Gravel from Road—An Illegal Percentage Resolution—Jurisdiction of Police Village Over Road.

93—ENGINEER.—1. Some few years ago there was a gravel pit opened on the side of the road. The pit now has a face of about 17 feet. When can the owner of the adjoining farm collect pay for gravel?

2. Does all the gravel outside the line fence belong to the road or can he claim a slope of the gravel?

3. On the 15th of December, 1903, the municipal council passed a motion of council inflicting a penalty of 5% on all taxes not paid on December 24th, 1903. Could they legally do so?

4. We have a police village in this municipality. The county by-law forming said village describes it as being composed of lots 23, 24, 25 and 26, on a certain concession. Between lots 22 and 23 there is a sideroad. Now how much should the police village pay toward keeping up said sideroad? The village claim that they do not go any further than the line fence of lot 23.

1. The owner of the land adjoining the gravel pit on the road is not entitled to any pay for gravel removed until entry is made on his land and gravel removed therefrom.

2. All the gravel on the road allowance belongs to the township. The latter, in removing this gravel,

should be careful to do so in such a manner as not to cause a subsidence of the soil, whereby the fences of the adjoining owner would be destroyed or injured or his lands damaged.

3. We are of opinion that the council had no authority to pass this by-law. A by-law of this kind should be passed by a council intending to take advantage of the provisions of section 60 of The Assessment Act, as enacted by section 4 of chapter 27 of The Ontario Statutes, 1899, prior to the delivery of the collector's roll to the collector, so as to enable him to give to the ratepayers the notice mentioned in sub-section 4.

4. We do not think that the trustees of the police village can be required to do anything towards the maintenance of this sideroad.

Procedure in Opening New Roads.

94—R. A. K.—It has been customary in this municipality for the council to purchase right of way and open up deviation roads simply by motion of council. For instance, last year the council passed a motion to pay a certain party a certain sum for a right of way for a deviation road through a corner of his lot. The council made no survey and holds no deed of the land, but the receipt which they hold from the party selling the land states that the amount is in payment of a right of way through a certain lot. Statute labor has been performed on the deviation. See chapter 223, section 598, R. S. O., 1897.

1. Is this a legal way of opening up deviation roads?

2. If not, what steps should be taken by the council to make this title to said roads good?

1 and 2. The council has not taken the proceedings prescribed by law for the opening and establishing of this highway, and the section quoted does not remedy the matter. The council should pass a by-law pursuant to the provisions of section 637 of The Consolidated Municipal Act, 1903, after it has strictly observed the preliminary proceedings mentioned in section 632. If the council and owner of the lands required for the purpose of the road cannot agree as to the amount of the compensation to be paid to the latter, the question should be settled by arbitration pursuant to the provisions of section 437 of the Act.

Collection of School Rates from Ratepayers a Long Distance from School.

95—P. S.—Part of our municipality is very thinly settled and a number of ratepayers are residing at such distances from the nearest school that they are not included in any organized school section, and of course are not paying school section rates. The municipal school rate referred to in section 70 of Statutes and Regulations respecting public and high schools, however, has been always levied against and collected from their assessed property at an equal rate with all ratepayers residing within an organized school section. Some of the ratepayers first referred to are refusing to pay their municipal school rate, 1903, claiming that said rate is illegally levied against their property and should only be levied against the assessed property of those ratepayers who reside in organized school sections. Has our council heretofore acted legally in levying said rates as they did, or are the ratepayers correct who refuse to pay them?

This is a municipality in an organized district, having county organization, and therefore sub-section 3 of section 25 of The Public Schools Act, 1903, has no application. Sub-section 1 of section 70 of the Act provides that "the municipal council of EVERY township shall levy and collect by assessment upon the taxable property of the public school supporters of the whole township in the manner provided by this Act and by The Municipal and Assessment Acts the sum of \$150 at least for EVERY public school which has been kept open the whole year exclusive of vacations." This sub-section applies to ratepayers residing a long distance from a school house as well as to those living close at hand, and we are of opinion that the council has acted legally in making this levy from year to year in accordance with the provisions of the above sub-section, and that none of the ratepayers can escape payment thereof.