

Assessment Appeal—Duty of Assessor—County Grant to Volunteers—Dwelling for Gaoler, etc.

209—M. L.—1. If a ratepayer considers the assessment of a township four or five dollars too high, above the value he thinks it, is he justified in appealing against the assessment of the whole township?

2. Is it the actual value or the price that could be realized if sold by a solvent owner, the value an assessor should give a property?

3. Is it legal for a county council to give grants to supplement the pay of volunteers?

4. If so to what extent?

5. Is a municipality (county) required to furnish a dwelling for the gaoler, matron and turnkeys, or just for the gaoler and his family?

1. No.

2. Section 28 of the Assessment Act provides that "real and personal property shall be estimated (for assessment purposes) at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor."

3. Yes. See sub-section 7 of section 591 of the Municipal Act.

4. To such extent as the council may deem just and reasonable, the above sub section imposes no limit.

5. Section 506 of the Municipal Act makes it the duty of the county council to provide proper offices, etc., for all officers connected with the courts, and section 178 of chapter 51, R. S. O., 1897, declares that sheriffs, deputy sheriffs, gaolers, constables and other peace officers are officers of the courts. The county council is required to provide dwellings for the gaoler and matron and apartments for the turnkey, who is required to sleep in the gaol nights, by the rules and regulations in force for the government of common gaols. See also chap. 321, R. S. O., 1897.

Assessment of Timber and Portable Mill—Of Married Woman.

210—W. N.—1. A, who is not a ratepayer of this municipality, bought a cut of timber on some lots in the municipality, and employs B, who is also a non-ratepayer, and who owns a portable saw mill, to cut it into lumber. Can either or both of them be assessed—say, A for the lumber and B for the mill?

2. Can a woman's property be assessed to her husband or son, with the owner's consent?

1. Both these classes of personal property are assessable, in the manner provided by section 28 of the Assessment Act, to their respective owners, unless in each case the actual cash value does not exceed \$100, in which latter case the property is exempted from assessment by sub-section 25 of section 7 of the Act.

2. No. The wife should be assessed as owner and the husband as occupant. See section 19 of the Assessment Act.

Cattle By-Law.

211—CLERK.—Our township is considering the passing of a by-law allowing cattle to run at large in the township. A good many here are of the opinion that this by-law will allow people to turn out their cattle and have no more thought about them whether they destroy their neighbors crops or not, so long as the cattle are off their property.

1. Providing that a person owns property and it is not well-fenced on the back of the clearing, where it is bush, will this by-law allow of the cattle running at will and destroying any crops that may be there?

2. Can the owner of said lands impound such cattle in defiance of such by-law being passed?

3. Will the by-law compel every person to

put up good substantial fences along the high-ways to protect their crops so that cattle can go where they like and the owner of them have no thought whether their cattle destroys their neighbor's crops or not?

1. No.

2. Yes, if found trespassing on his premises.

3. No.

Description of Lands on Assessment Roll.

212—F. W. S.—1. Is it legally necessary to describe a parcel of land on the assessment roll by the assessor, as patented or unpatented, to make the title legal in the event of its being sold for arrears of taxes?

2. Is it necessary to pass a by-law for the payment of an O. L. S. for the surveying of a piece of new road upon Indian reserve, there being no by-law for the hiring of said O. L. S. and no by-law for the expending of money upon roads as yet for the present year, that this order could be issued under?

Re my first question, see Chancellor Boyd's decision in the tax deed suit in the chancery division of the high court, held in Walkerton in either 1887 or 1888 and was appealed to Toronto. The plaintiff was P. A. Scott and I was defendant. I lost the case on account of lot being assessed and sold as unpatented when it had been patented. And as some members of our council misconstrue this part of the Assessment Act, I would like for the future benefit of this municipality to put them aright.

1. No. Section 23 of the Assessment Act requires the assessor to enter on his roll and assess at its actual value the interest of a locatee in unpatented lands, but does not, in terms, render it necessary that he should state or show on his roll whether such lands are patented or not. We have examined the case you refer to. The point you mention was not considered, nor did it form any part of the reasons for the decision therein given. The judgment was delivered against the defendant for the reason that the county treasurer had not complied with the provisions of section 177 (sub-section 1) of chapter 224, R. S. O., 1897, (formerly section 164 of chapter 193, R. S. O., 1887) which required him to state in his advertisement of sale whether the lands offered for sale were patented or not. By reason of the omission of the county treasurer, of this particular, it was held that the sale had not been fairly conducted, and should be set aside.

2. No. A resolution of your council is sufficient for the purpose.

Assessment of Bitches.

213—D. A. S.—Should a bitch, that is splayed, be taxed the same as other bitches which have power to draw dogs away from home into mischief perhaps?

Yes.

Snow Fences.

214—J. R.—Perhaps in my question No. 188 I did not state clearly and fully what I wished answered in regard to grant to parties building wire fences. Our council here are agreed to make a grant of, say 20 cents a rod to one or two parties living alongside the gravel road, where at present a rail fence stands. By having a wire fence erected it would obviate the necessity of expending a large amount of money which it now costs annually to keep the road clear of snow. The council are quite ready to make the grant and the party is also willing to accept the amount so offered but the

question is cannot the council, by resolution, legally make the grant without passing a by-law in the matter?

The agreement with the owners and the payments to them of the amount of the grant for building wire fences instead of those now in use, are authorized by section 1 of chapter 240, R. S. O., 1897, and your council should pass a by-law pursuant to sub-section 5 of section 545 of the Municipal Act, making provision for the payments, and embodying the terms of the arrangement as to the building of the fences. The payments authorized by the by-law may then be made to the parties entitled to receive the amounts by orders on the treasurer issued pursuant to resolutions of council.

Refusal of Reeve to Sign Order.

215—C. I. H.—If a municipal council passes a resolution to pay a certain bill and it carries unanimously and the clerk makes out the order for same and signs it, can the reeve refuse to sign said order, and if he does refuse what steps should the council take to have said order paid?

There is no way of compelling the reeve to sign the order. If he persist in his refusal to do so, the members of the council should elect a temporary presiding officer or chairman, who can sign the order.

Remuneration of Councillors—Dog-Tax By-Law.

216—P. B. R.—1. In what legal way can reeve and councillors of an incorporated village derive remuneration for their services?

2. We are about passing a by-law for the collection of the dog-tax by the use of dog-tags.

(a) Where can we find any special instructions in regard to framing such a by-law?

(b) Who is the proper person to hold and sell the tags?

(c) In case any person refused to buy a tag for his dog, what recourse should the council take to enforce the same?

1. Councillors of a village are not legally entitled to any pay for their services nor can they vote themselves such, either as councillors or as commissioners. Section 280 of the Municipal Act makes provision for the remuneration of the head of the village council (reeve) and section 538, sub-section 1, authorizes the councils of counties and townships to pass by laws for paying members of such councils only.

2. (a) The provisions of by laws of this kind vary according to the needs and requirements of particular localities. We would suggest that you communicate with one or more of the following in whose municipalities dog-tag by-laws are in force and they will give you the information you require: J. H. Duncan, town clerk, Collingwood; B. F. Matthews, village clerk, Fort Erie; Rendol Snell, village clerk, Marmora; A. H. Kilman, township clerk, Ridgeway; Wm. Spence, township clerk, Manchester.

(b) The usual and proper way of disposing of dog-tags is to supply them to your assessor when starting his work, who will furnish them to owners of dogs on receipt of the amount of the tax imposed.

(c) The penalty for the refusal to buy a tag and pay the dog-tax should be fixed by your by-law.