

Collection of Taxes from Owners and Tenants of Block.

84—R. C.—A owns a block and has it rented to three tenants, B, C and D. B is assessed as tenant to A, as owner, and also for \$500 personal on stock belonging to B. B has failed and stock was sold before the collector got his roll. A comes and pays the taxes of B, \$400 on building and \$500 on personal of B. B is not worth anything and cannot pay. A refuses to pay taxes on C and D and he claims that the collector should give him credit on C and D of the amount paid by him on B, personal, as he claims that he is not liable for and should not have paid for B personal. Can the collector collect by distress on C, he being still a tenant of A? D has moved out, and the place is occupied by E. D is still in the village. Which should the collector distraint, A, C, D or E? Can the collector credit A with amount paid on B, personal, to C and D? A's name appears on the roll for three assessments as an owner.

We assume that B, C and D are all on the assessment roll as tenants, and A as owner of the block. This being the case, A was legally liable to pay the taxes on B's portion of the premises. If he paid the taxes on B's personal voluntarily and without protest, he cannot now recover them, nor is he entitled to have them credited on taxes due from C and D. The collector can collect C's portion of the taxes by distress, and also D's if he can find any distrainable goods of the latter within the county. If the taxes payable by C and D cannot be collected by any of the other methods provided by the Assessment Act, the amount should be returned against the lands of A, and in due time they should be offered for sale to realize the amount unless previously paid. E is not liable for the taxes or any part thereof, unless he comes within the provisions of sub-section 4, of section 135, of the Assessment Act, to which we refer you because the provisions are too long to set them forth in full. In answering these questions we are assuming that the taxes payable by A, B and D are taxes payable in respect of the premises.

Clerk Can Hold Office of Treasurer Also.

85—O. M. H.—Is it legal for a clerk of a municipality to hold the office of treasurer of the same municipality?

Yes.

Statute Labor Default.

86—CLERK.—In making out the list for pathmaster, last season, I omitted to put the number of days after the name of one of the ratepayers. He saw the list with the blank after his name, and would not, or did not do any work. Can I add the days he should have done to next year's labor? Would I be responsible if he cannot be made to do the work?

The pathmaster had a right to and should have placed this man's statute labor on his list, after he had ascertained the number of days for which he was liable. If the pathmaster gave the party liable the notice to perform his work required by the by-law of your municipality regulating the performance of statute labor (if any,) and he refused or neglected to perform it, but was returned to you as a defaulter, the amount of his statute labor should be placed by you on the collector's roll for this year, to be collected in the same way as ordinary taxes. You cannot add it to the defaulters' statute

labor for this year. We do not see that any responsibility attaches to you in the matter.

Enforcement of Dog Tax—Of Poundage Laws.—Meaning of "Legal and Equitable."

87—W. H.—1. Can the law imposing a tax on dogs be enforced without a by-law being passed by the council?

2. In passing a by-law can the council change the amount of tax imposed when passing the by-law?

3. Can the Act, restraining certain animals from running on public highways, be enforced without a by-law?

4. What is the meaning of the terms "legal and equitable" in the Municipal Act, as regards qualification for reeve or councillor?

1. Section 1 of chapter 271, R. S. O., 1897, provides that, "subject to the provision in the next following section, there shall be levied annually, in every municipality in Ontario, upon the owner, harbinger or possessor of each dog therein, an annual tax of \$1 for a dog and \$2 for a bitch." The above provision of the statute is in force in every municipality in Ontario, without the passing of a by-law in such municipality, unless and until a by-law has been passed pursuant to the provisions of sub-section 2 of the Act.

2. Yes. We presume you mean the passing, by the council, of a by-law pursuant to sub-section 3 of section 540 of the Municipal Act.

3. Chapter 272, R. S. O., 1897, is in force in every township, city, town and incorporated village in Ontario, until varied by by-laws or other provisions passed under the authority of section 546 of the Municipal Act. Until restrained by by-law of the municipality, all animals can legally run at large, but the owner or owners will be liable for damage caused by them, and the animals are subject to be impounded for trespassing and doing damage.

4. Wharton in his "Law Lexicon" defines a "legal" estate as one opposed to an equitable estate, and an "equitable" estate or interest, as one for which a court of equity affords the only remedy. And of this nature, especially, is the benefit of every trust, express or implied, which is not converted into a legal estate by the statute of uses. The rest are equities of redemption, constructive trusts and equitable charges. If a man owns a farm or piece of land, in fee simple, he is the legal owner thereof, but if he has mortgaged it the legal estate is in the mortgagee and the owner in that case has only an equitable estate.

Should Pay the Taxes.—Changing Road Allowance.

88—D. C. M.—In 1891, A surveyed and laid out part of his property in building lots. B bought a lot from A; paid part, and built a house, but got no conveyance from A. B lived on the place five years, and paid taxes and performed statute labor. At the end of five years B left the house and moved fifteen miles away, but he left household stuff in the house, with the intention of coming back. A year after this A comes before the municipal council and wished to have the property assessed to him. The council refused to do so till A would

produce an order from B that he wished the property to revert to A. A did not get any order from B, but in 1890 our assessor assessed the house and lot to A as a building lot. A objected, and wishes lot to be assessed as part of his other property, of which, at one time, it formed part. A's plan of village is registered. Can A be sued for taxes on village lot which he refuses to pay?

2. Government made a road through my property twenty years ago, and has been used for such since. Statute labor has been put on every year. I want the council to consent to change the road on another part of my property. They have given me liberty. I have made and graded the road, but it will be one mile longer for the public to travel than the old one. My neighbors object to council giving permission to change the road, and threaten proceedings in case the original road is closed. Can council give permission legally? Can neighbors or the public interfere?

1. The premises were assessed to A in 1900 and A did not apparently appeal to the court of revision for that year as he had a right to do under the provisions of the Assessment Act, and the assessment cannot now be altered. A is liable for the taxes and if they cannot be realized by any of the other methods provided by the Assessment Act, the premises can, in due time, be sold to realize the taxes.

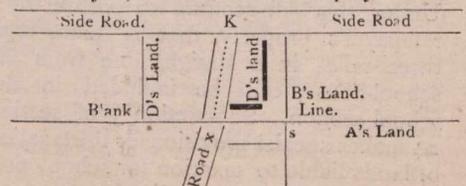
2. The old road cannot be closed nor the new one opened and established until the council of your municipality has passed a by-law pursuant to the authority of section 637 of the Municipal Act. (Sub-sections 1 and 2) after the preliminary proceedings mentioned in section 632, have been strictly observed and carried out.

Illegal Levy.—Election of Chairman of School Meeting.—Closing Old Road and Opening New.

89—CLERK.—In August, 1900, our council passed a by-law entirely abolishing statute labor. Council also passed a by-law authorizing a rate of four mills on the dollar of the total assessment of the township, to be placed on the collector's roll, and collected by him (collector) in 1900, to be used in constructing and improving roads and bridges in 1901, in lieu of statute labor abolished. Some of the ratepayers refuse to pay said rate, claiming it is not legal to collect rates in 1900 to make roads in 1901, and they did their statute labor in 1900 too. What is your opinion of above excuse? We see no other way to have money to pay men next June for work on roads unless we borrow it.

2. At an annual school meeting it is moved and seconded, that A be chairman; an amendment is moved and seconded, that B be chairman. A vote is taken and results in a tie, each having an equal number of votes. How is above to be decided on, or how will the meeting get a chairman?

3. From X to S is a private road for the accommodation of A. B is going to close it up. Council proposes to close road from X to K, and open a road on heavy black line from X to sideroad. Can council compel B to sell a piece of land at post where corners of four lots meet in order to get a road for A, who at present has no road only a private road from X to S, which is owned by B, and is to be closed up by B?



1. We are of opinion that the council has no legal authority to make this levy.