

do not pay any taxes on property be liable for poll tax? No poll taxes have been charged young men here for the last two years, while they enjoy all the village advantages and vote at provincial elections; monthly tenants voting at all elections yet paying no direct taxes.

By section 88 of Assessment Act, a poll tax is levied on all males over 21 and under 60. Monthly tenants would not be liable for poll tax if assessed.

CLERK.—I. Can the municipal council of an incorporated village fill the vacancy, caused by the annual retirement of a High school trustee, by a resolution of the council, or is it necessary to make such appointment by by-law? I have always contended heretofore that a by-law was necessary for the appointment of high school trustees to fill the vacancy of the retiring trustee, but I am quite sure I saw in some Legislation an Act permitting such appointments by resolution, but as I cannot confirm my impression after a prolonged search, I come to you for advice, as I am satisfied from the lucid answers you make to correspondents your information will be reliable in any question relating to municipal law.

Our correspondent is safe in acting on the assumption that all appointments to be made by a municipal council should be made by by-law thereof. We think the appointment mentioned by our correspondent should be made by by-law.

H. M.—Can an assessor who was appointed for 1893 take his seat and legally qualify as a member of the council for 1894? The council of 1893 did not relieve him of the office. Does he not hold office until his successor is appointed? It is rumored that if he does take his seat as reeve we cannot collect taxes levied by the council as, legally speaking, the declarations of office made were contrary to the fact as above stated.

We do not think the person referred to was legally qualified for election to a seat in your council for 1894. See sections 77 and 279 of the Consolidated Municipal Act, 1892. We do not consider, however, that his taking his seat as reeve, and making the usual declarations of office, and qualification would have the effect suggested by our correspondent in the latter part of his question.

Many Counties are at present arranging settlements with separated towns and cities for payment of administration of justice and other expenses to which these municipalities are required to contribute. The Statutes do not provide a basis on which these expenses are to be apportioned except those of the registry office, which are to be divided in proportion to the assessed value of the municipalities interested. The settlement of a basis is the whole question. In the case of St. Catharines vs. Lincoln, in 1883, arbitrators were appointed to determine the amount to be paid to the county. The county not being satisfied appealed from the award, and Mr. Justice Osler in giving his judgment confirmed the action of the arbitrators in taking as a basis the proportion of population, in the following words: "The point chiefly insisted on by the county before the arbitrators, and on the present motion, was that the assessment rolls of the two municipalities formed the proper, and indeed the only basis on which the proportion of the expenses to

be borne by the city should be ascertained. The city contended that population was a surer guide. The act does not lay down any principle or rule by which the arbitrators are to be governed in ascertaining the proportion. The whole question, therefore, rests largely in the reasonable discretion of the arbitrators. It appears to me that in several of the matters awarded on, they have taken the populations of the county and city, as nearly as they could be ascertained as the basis on which to estimate the proportion to be paid by the city. I do not think they were wrong in so doing, on the contrary, it seems to me that as to all such expenses as must be incurred by the county in any event, such as the use, maintenance and repair of court house and goal and registry office, official salaries, etc., population is, as a general rule, a very fair basis. So also as to the expenses of the administration of justice; in all cases, however, subject to any special circumstances (which do not exist in the present case) showing that a larger proportion of any particular item of expense should be borne by one corporation rather than the other. To adopt the comparative assessments of the city and county as a basis would, owing to the practical difference in assessing city and county property, be entirely illusory and unjust, and an attempt to correct it by equalizing the assessment is at best but a rule of thumb expedient when the different elements which constituted city and county assessment are considered."

The above is applicable to all but goal expenditure which is sometimes divided in the proportion of county to city or town prisoners, the place where the offence was committed in all cases decides where the prisoner belongs.

* * *

The South Grimsby council at the request of the patrons of industry, have appointed a committee of three rate-payers to ascertain from other municipalities in which statute labor has been abolished, whether it would be advisable for the municipality to commute instead of performing statute labor as heretofore, and also to get such information in reference thereto as may be of benefit to the township in deciding the question.

* * *

The purchase of a dumping ground for street cleanings and refuse generally, is engaging the attention of many local boards of health of towns and villages. This may be a great convenience but care must be taken to guard against any nuisance that may be created thereby. The frequent use of powerful disinfectants to be spread over or mixed with the refuse occasionally will assist in preventing complaints from this source. A supply of lime stored at the dumping-ground will be found cheap, and if properly used will destroy the noxious elements in what will otherwise be a hot-bed of disease.

The Municipal Index

BEING AN

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TO ENACTMENTS IN THE REVISED STATUTES OF ONTARIO, 1887, AND SUBSEQUENT STATUTES OF THE PROVINCE OF ONTARIO WHICH AFFECT MUNICIPAL CORPORATIONS, THEIR COUNCILS AND OFFICERS.

By **ALLAN MALCOLM DYMOND,**

Barrister-at-Law,

Law Secretary to the Department of the Attorney-General of Ontario, and Law Clerk to the Legislative Assembly

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