

1. The clerk of a municipality is entitled to such extras only, over and above his salary, as the council agrees to allow him at the time of his appointment, or as are allowed him by some statutory provision requiring the performance of some duty by him, and the council when employing him, does not specify that the salary agreed upon is to cover *and* include the fees allowed by statute for the performance of these special duties.

2. No. Unless it is so specified in the contract of employment.

3. No. Unless the council agrees to allow him such.

4. Yes. Unless at the time of appointing him, the council specifies that his salary is to cover and include the amount of these fees. See section 35 of Chap. 44, R. S. O., 1897.

5. The general duties of the clerk will be found in section 282 and following sections of the Municipal Act. In addition to the services required of him by these sections there are numerous other statutes requiring him to perform duties under their provisions, for instance: The Ditches and Watercourses Act, (R. S. O. 1897, Chap. 285.) The Municipal Drainage Act, (Chap. 226.) The Assessment Act, (Chap. 224.) The Jurors' Act, (Chap. 61.) The Act respecting the Registration of Births, Deaths and Marriages, (Chap. 44.) The Ontario Voters' Lists Act (Chap. 7.) The Act Respecting Line Fences, (Chap. 284), The Act Respecting Pounds, (Chap. 272), etc.

Power of Reeve and Clerk to Call Special Meetings.

219—J. L.—1. This week the reeve called a special meeting of council for the purpose of quashing by-laws re the liquor licenses of 1902. Said by-laws were repealed by one motion, viz., that the liquor by-laws of 1902 be repealed. A few days later three of the councillors requisitioned the reeve to call a special meeting of council to pass a by-law to fix the duty to be paid by liquor license holders. He refused. Later they requisitioned the clerk to call a meeting, which he did. The reeve persuaded one of the three not to come to the meeting, as it was not legal. I hold that the said by-laws, which were numbered 17 and 18, could not be repealed together without even the number of said by-laws put in the motion, and that they ought to be repealed separately. I hold that the clerk was right in calling the meeting, and that anything done at said meeting would be legal if passed by a majority of the council. Am I right?

It is not stated whether these by-laws were passed pursuant to section 42 of the Liquor License Act, or not, but assuming that they were, they could be repealed only by a BY-LAW OR BY-LAWS of the council. If the duty imposed by them is in excess of \$200, the by-law or by-laws repealing them would require the approval of the electors of the municipality before their final passing. If these are local option by-laws passed in accordance with section 141 of the Act, the provisions of sub-section 2 of this section must be observed before repealing by-laws can be passed. We do not think the clerk was legally justified in calling the special meet-

ing. The reeve or head of the council was not dead or absent, and it is only in one of these emergencies that the clerk is authorized, to call a special meeting of the council, upon a special requisition to him, signed by a majority of the members of the council. (See Sub-section 2 of section 270 of the Municipal Act.)

Local Option By-Law Must be Assented to by Electors.

220—G. S.—Has the council of an incorporated village power to bring in "Local Option" without a vote of the ratepayers?

No. See section 141 of the Liquor License Act. (R. S. O., 1897, Chap. 245.)

Local Treasurer Cannot be County Councillor—Custody of Treasurer's Bond—Inspection of Documents in Clerk's Hands.

221—J. M.—1. Let us know if a county councillor can be appointed a township treasurer while holding the county councillorship without resigning.

2. Who is the proper official or where should the treasurer's bonds be kept?

3. If any township official hold the treasurer's bonds should they be forthcoming for the committee who is appointed by the council at the January session to examine the treasurer's security, or for the township auditors to examine?

4. Should all returns sent by the county treasurer or county clerk to our township clerk be brought to the township council by the clerk and read as correspondence?

5. The Assessment and Collectors Act states that the collector will return his roll to the township treasurer. Now if the council wants to see the defaulters roll, should not they, by asking for it, have the privilege of examining it to see who the defaulters are?

1. Yes, but his appointment to and acceptance of the office of treasurer of a local municipality in his county, will disqualify him from membership in the council of his county. Subsection 1 of section 80 of the Municipal Act provides that "no TREASURER of ANY municipality shall be qualified to be a member of the council of ANY municipal corporation."

2. The clerk is the proper custodian of the bond of the treasurer as well as of other municipal records.

3. It is the duty of the clerk to allow a committee of the council, or any other person or persons, to inspect the bond of the treasurer or any other official document in his possession or under his control at all reasonable times. (See Subsec. 1 of section 284 of the Municipal Act.)

4. No.

5. Yes.

Law as to Registration of Births, Marriages and Deaths.

222—C. M.—1. Is the clerk of incorporated village compelled to register births, marriages and deaths from outside municipalities?

2. Must the village pay for such?

3. Can village compel the surrounding municipalities to refund the same amount?

4. Can the clerk of the outside municipalities collect for the same when forwarded to him from village clerk?

1. No, and his doing so would be a contravention of the statutes. Sec. 9 of

chap. 44, R. S. O., provides that every incorporated village shall be a registration division for the purposes of the Act, and subsection 1 of section 11 that the clerk shall be the division registrar. Sections 15, 20 and 22 require the registration of births, deaths and marriages with the registrar of the division in which the birth or death takes place or the marriage is celebrated. The nearest division registrar is required to issue burial permits when deaths occur in a township and forward particulars to the proper registrar. (See subsection 2 section 24.)

2. No, and it has no authority to do so.

3. No and a question of this kind could not by any possibility arise, if the several division registrars properly performed the duties required of them by the Act, respecting the registration of births, deaths and marriages.

4. Yes, if he is the proper division registrar to receive and register them under the provisions of the above statute.

Assessment of Land in adjoining Municipality for Drainage Works—Liability for Road out of Repair.

223—D. L. W.—1. The council of a township received a duly signed petition for a drain under the provisions of the Drainage Act. This drain (at the upper end) is expected to extend to the boundary line between two counties. One lot in the adjoining county will be benefited, and the owner of this lot signed the petition to get the drain extended through part of his land. Can the council take action on this petition, or will it be necessary to strike off the name of the petitioner in the adjoining township before proceeding with the work?

2. A new school section was formed in this township four years ago, and about a year after the council opened a sideroad for convenience of the ratepayers of said section. About one-third of this sideroad is swamp and it has not yet been made fit for travel. One ratepayer requested the council to improve the road to enable his children to get to school (they are over three miles from any other school). Last December he asked the council to refund his school tax, and as they did not comply he is now entering an action against them for negligence in not having the road fit for his children to travel. Would it be legal for the council to refund the tax, or can they be held liable for not having the road made passable?

1. If, in the preparation and presentation to the council of this petition, the provisions of section 3 of the Act have been observed, there is no reason why the council should not act on it, simply because a lot in an adjoining municipality will be assessed for a part of the cost of the construction of the proposed drain. Subsection 1 of section 57 of the Municipal Drainage Act (R. S. O., 1897, chapter 226), provides that "Where any drainage work is not continued into any other than the initiating municipality; any lands or roads in this initiating municipality or in any other municipality, or roads between two or more municipalities which will, in the opinion of the Engineer or Surveyor, be benefited by such work or furnished with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, may be assessed for such proportion of the cost of the work as to the Engineer or Surveyor