

tion or other measure (See section 269 of the Municipal Act.) By section 268 it is provided that "a majority of the whole number of members required by law to constitute the council shall be necessary to form a quorum." A majority of the members of the council having been present at its last meeting, if the business transacted was concurred in by at least three of the members present, it was perfectly legal.

2. Section 214 of the Act provides that "the returning officers and deputy-returning officers shall hold the new election at furthest within fifteen days after receiving the warrant and the clerk shall appoint a day and place for the nomination of candidates, and the election shall in respect to notices and other matters be conducted in the same manner as the annual election." See also section 212 of this Act. Section 127 requires the clerk or other returning officer to give at least six days' notice of the nomination meeting. This notice should be given by poster or by publication in some newspaper in the locality. The election can be held on a Monday or any other day which is not a statutory holiday.

3. At the time fixed by by-law of the council for holding council meetings, if the council has passed a by-law fixing such dates, or at the time to which the council adjourned or fixed at its last meeting.

Transferring Farm Lands from Village to Township— Special Agreement as to Rate of Taxation of.

460—A. E. S.—B. for all purposes has this year a rate of 20 mills of which nearly half is for school purposes. We have a very considerable quantity of farm land in the municipality. Our farmers have petitioned the county council under section 18 of the Municipal Act, as amended by chapter 26 of 1901, to be put into the adjoining township. The county council declined to act until its November sittings, the farmers in the meantime to see what reduction the village council would make in their rate of taxation. The adjoining township rate for all purposes is about 10 mills. Under section No. 1 of chapter 29 of the Statutes of 1902, this village being incorporated, has power to fix a rate for five years.

1. Has this rate to be uniform or can it be graded according to location and advantages of each farm?

2. Can the School rate be dealt with in the same way as regards the farmers themselves?

3. Can a lower school rate be levied on the farm lands than on the other lands in the village?

4. Were it not for our heavy school rate the taxes here would not be heavy. If the County Council put the farm lands into the adjoining township, would they not still remain liable for our High and Public School rate?

1. The rate of taxation agreed to be levied upon farming lands located in an incorporated village, should be a uniform rate, as each parcel of such lands should bear and pay its just proportion of the rate levied according to the value placed upon it by the assessor in accordance with the provisions of the Assessment Act.

2. No. The council has nothing to do with the fixing of the rate of taxation in the village for school purposes. This

is the Province of the Board of Public School Trustees. The council is required by section 71 of the Public Schools Act, 1901, to levy and collect upon the taxable property of the municipality such a sum as the trustees require for public school purposes.

3 and 4. No. All the taxable property in the municipality should bear and pay its proportionate share of the school rate. The amendment of 1902 to which you refer, authorizes no discrimination in this regard. Unless these farming lands when they are detached become part of a union school with the village municipality by proceedings instituted under the provisions of the Public Schools Act, they will form part of, and be liable for school taxes in the school section in which they are located in the municipality to which they have become attached. We do not know whether the municipality to which it is proposed to attach these farm lands, is in the high school district of which the village forms a part. If it is not, these lands when attached to it, will not be liable for their share of the sums required for high school maintenance applied for by the trustees of your High School Board pursuant to sub-section 5 of section 16 of the High Schools Act, 1901.

Insurance Company By-laws.

461—M.—About twenty years ago the townships of S and B organized a Farmers Mutual Fire Insurance Company. A new president elected last winter was instructed to prepare a by-law fixing the rate to be levied this year, in order to meet expenses. In looking to get number of new by-law find the old by-laws are numbered, but are not dated, sealed or signed by either president or secretary. This caused a committee to be appointed to revise and amend by-laws.

1. What course should committee take to amend such by-laws?

2. Should new by-law be No. 1 or numbered after the last old one?

1. If the old documents purporting to be by-laws of the company were not dated sealed, or signed by the proper official or officials of the company, they are not by-laws of the company at all, and have not nor ever had any operation as such. There are, therefore, no by-laws for the committee to amend.

2. Since the company has as yet passed no by-laws, the first by-law it passes hereafter will be numbered one.

Removal of Obstructions from Drains.

462—N. Y. Z.—A complains to municipal council that B, who is up stream has allowed a tree to obstruct a large creek gathering a lot of debris causing a jam and thus diverting the water in another direction, and likely to cut another channel. When spoken to, B claims that the tree is a bridge or crossing from one side of the stream to the other. Enclosed find by-law purporting to remove driftwood, etc., from streams in the municipality.

1. Is the by-law effective?

2. If not, what steps shall A take to remove the grievance?

3. If council should have new by-law please outline its contents.

BY-LAW NO....

To prevent the obstruction of streams, creeks and watercourses by trees, brushwood, timber and other material.

Be it enacted, etc., etc.

1. No person shall obstruct any stream creek or watercourse in by trees, brushwood, etc.

2. All such obstructions may be removed by this corporation at the expense of the offenders.

3. The expense of such removal may be levied against such offenders in the same manner as taxes are levied.

4. Any person guilty of an infraction of this by-law shall be liable on conviction to be fined in any sum not less than five dollars, exclusive of costs, and in case of non-payment of the fine and costs, the same may be levied by distress and sale of the goods and chattels of the offender, and, in case of non-payment of the fine and costs, and there being no distress found out of which the same may be levied, such offender shall be liable to be imprisoned in the common gaol, etc., etc., not exceeding twenty-one days.

Read three times and passed in open council the 17th day of July, 1886.

(Seal.)

(Signed)

1, 2 and 3. It is not stated whether B personally or by his agent, placed this tree or caused it to be placed in or across the stream, or whether it accidentally fell into or across the stream upon B's land. If the former, it can be removed by the council under the provisions of such a by-law as that outlined above, passed pursuant to sub-section 12 of section 562 of the Municipal Act. Mr. Chief Justice Hagarty remarked in *Danard v. Township of Chatham*, (24 C. P. 590), that "this provision seems to point at obstructions actually caused by parties, (the "offenders") rather than at the ordinary accumulation of driftwood." If the latter is the case and the stream forms a boundary line between two or more municipalities within a county, the county council should keep the stream open under the provisions of sub-section 1 of section 619 of the Act. If the stream forms a boundary between two or more counties, or a county, city or separated town, sub-section 2 of this section lays down the line of proceedings to be followed. Proceedings may also be instituted, and a by-law passed providing for the removal of the obstructions from the stream pursuant to section 3 and following sections of the Municipal Drainage Act, R. S. O., 1897, chapter 226, provided the necessary petition can be obtained. Even if this log or tree was placed across the stream to be used as a bridge in passing from one side to the other, it should have been so placed and should be kept in such position as not to in any way impede the flow of the water. In this connection, see also section 5 of chapter 142, R. S. O., 1867. This by-law appears to have been passed in accordance with sub-section 12 of section 562 of the Municipal Act, and could be made available for the purpose of compelling the removal from streams of obstructions actually placed there by any person whether the stream flows through public