

Members of Public and High School Boards Disqualified as Members of Council.

61.—SUBSCRIBER.—Does section 5 of chapter 29 of Ont. Stats., 1902, refer to a member of a public or High School board resigning? If his resignation was not in before the 29th of December (Nomination day) can he be disqualified from sitting in the council for 1903? His term as public school trustee expired December 31st, 1902. Give authority.

Section 5 of chapter 29 of the Ontario statutes refers to "any School Board for which rates are levied." A member of a HIGH SCHOOL Board is disqualified from membership in a municipal council by sub-section 1 of section 80 of the Municipal Act, and section 5 of chapter 29 Ontario statutes, 1902, practically disqualifies all members of Public School Boards. A candidate for election to any municipal office must possess the necessary statutory qualifications "at the time of election." (See sub-section 1 of section 76 of the Act.) The "time of election" begins on NOMINATION DAY (this year the 29th December.) Assuming that a candidate possesses all the other necessary qualifications, in order to qualify as a candidate for Councillor for 1903, he should have resigned his membership of the Public School Board and had such resignation accepted by his colleagues on the Board, at some time PRIOR to NOMINATION DAY. There is no provision in the High School Act for resigning with the consent of the other Trustees as there is in the Public Schools Act.

Powers of Township Council.—Law as to Transient Traders in Districts.

62.—S. D. B.—Send me a list of what by-laws should be brought up at the different meetings of council and what is the proper time to meet, and everything re tavern licenses, what amount can the council put on for the township and show how same is put through. What can council do in the matter as follows. We are somewhat out of the world in this way, being so far away from any railroad, some 70 miles and each party putting in supplies must put in enough for six months and as this is a timber section the supplies are nearly gone by the time we assess in the spring, therefore we receive little or nothing out of their stock, can we get at them some other way or time of year? There is a wholesale provision store just started up this fall and laid in a large stock. They only purchased a lot and placed a shed for storing stuff but all their buildings are rented by them. They are of course, not on assessment roll as yet and as I said before, put in a very large stock, but by spring mostly everything will be sold out and nothing that assessor can assess and perhaps may not remain here as they only sell to the lumbermen and jobbers in that branch of business. Of course to some extent they hurt the general merchants and it seems not fair that they get off scot free and others are trying to make their living and carry a general stock and have to pay school and township rates. Would you call the above Company "Transient Traders"?

The number of by-laws authorized by the statutes to be enacted by a municipal council is almost illimitable, and they vary so much in their requirements that it would be impossible for us to give you any adequate list of them in the space and time at our command. If you let us know for what purposes the council requires and intends to pass by-laws, we

will advise you, as to whether they are authorized by statute or not, and if so, where the authority is to be found. Section 259 of the Municipal Act provides that this first meeting of the council shall be held at 11 o'clock in the forenoon on the SECOND Monday of the same January in which they are elected, or on some day thereafter. Subsequent meetings should be held on such dates as may be selected by the council at its previous meeting, or fixed by by-law of the council. The provisions of the statute relating to township municipalities and tavern licenses issued therein will be found in section 41 and following sections of the Liquor License Act. (R. S. O., 1897, chapter 245.)

Your municipality being a township in a district having no county organization, neither sections 58, 59 or 61 of the Assessment Act have any application and sections 40 and 41 of chapter 225, R. S. O., 1897, prescribe the time when the assessment is to be made each year. It is doubtful whether the section relating to transient traders, (section 583 of the Municipal Act), applies to the municipality in question for these reasons. Section 31 of chapter 225, R. S. O., 1897, which relates to unorganized districts gives power to councils of every municipality in any unorganized district to pass by-laws for such purposes as are from time to time authorized by the councils of townships, etc., but section 32 of the same Act expressly declares that the council of every such municipality shall also have powers to pass by-laws in respect of the several matters named in certain sections of the Municipal Act among which sections is section 583, clauses 17 to 21 and as the Legislature considered it necessary to give this express power, the inference to be drawn is that such a municipality was not intended to have power to pass by laws in respect of the other matters provided by section 583.

Levy of Part of General Public School Assessment.

63.—P. C.—One of the schools in our municipality was closed for at least one month after midsummer holidays for want of a teacher. Can the treasurer of the municipality deduct a proportion of the \$150 general school rate?

This is not a matter which is left in the discretion of the treasurer. The council should pass upon it and the treasurer should be guided by the order of the council.

Fifth Form in Rural Schools.

64 E. W.—Our public school has 58 scholars on the register. Three ratepayers have each one child who has passed the public school leaving examinations. They insist on compelling the teacher to take up fifth class work for these scholars against the wishes of a large majority of the ratepayers and a majority of the Board of Trustees. The inspector has notified the trustees that unless high school work or in other words, fifth class work be taken up, he will withdraw the Government grant. Can he do so? Where he gets law for this I have been unable to find. No high school in the place.

Regulation No. 17 of the Education Department provides as follows: "The course of study for public schools shall be taken up in FIVE forms as herein after set forth, and pupils shall be classified by the teacher with respect to their attainments in all the subjects of the form to which they are assigned or from which they are to be promoted. Pupils who have passed the high school entrance examination and such other pupils as are considered qualified by the teacher and inspector shall be entitled in both RURAL and urban schools to receive instruction in the subject of the FIFTH form, provided that in a municipality having a high school if resident pupils of the first form of the high school are not charged fees it will not be deemed obligatory for the Public School Board to have a fifth class. The amount of time to be given to any class is to be determined by the teacher who shall be guided in this matter by the inspector." Since there is no high school in your municipality it is obligatory that your public school should have a FIFTH form.

Clause (c) of sub-section 3 of section 87 of the Public Schools Act, 1901, provides that it shall be the duty of the inspector "to withhold his order for the amount apportioned from the legislative or municipal grant, where the trustees fail to comply with this Act or the REGULATIONS OF THE EDUCATION DEPARTMENT."

Nominator and Secondor Should be Present at Nomination Meeting.

65.—M. J.—Give your authority for your affirmative answer to question number 38 (2) in the issue of THE WORLD for January, 1903, re presence of nominator and secondor of a candidate at the Nomination meeting.

See our answer to question No. 57 in this issue.

This Man is Not a "Transient Trader."

66.—W. M.—1. This village passed a by-law in accordance with the Transient Traders Act some years ago. We have no public market under the control of the corporation, but have two places where farm produce is being bought and sold every Thursday. Our town butchers pay no license, and they are trying to prevent an outside butcher from retailing beef on one of the private markets. The question which I would like to ask is this: Is a butcher so retailing beef on a private market a *Transient Trader*?

2. Does farm produce of any kind come within the scope of the Transient Traders Act? and is not beef a farm product and not goods or merchandise?

1. No. To constitute a person a "transient trader" he must occupy premises in the municipality, if only for a temporary period. (See sub-sections 30 and 31 of section 583 of the Municipal Act.)

2. In view of our answer to question number one, it is hardly necessary to answer this one. We do not see, however, why BEEF handled in the way you mention should not be held to be "merchandise" within the meaning of the sections of the Municipal Act relating to "transient traders." Worcester defines