

candidates retired? No motions were made; consequently not one candidate was nominated. How can it be said that the council was incomplete by reason of the retirement of any candidate or candidates, so as to bring this case within either of these sections? The facts of this case bring it within section 186, and for these reasons we adhere to the opinion given in our February issue.

2. We cannot understand why you should raise the question whether the appointment of an officer by ballot is legal or not. We don't think we are asked to express our opinion upon that point. But if that was the point which W.R. desired to have our opinion on we did not so understand it, and we did not express any opinion upon it in that view at all. We repeat in effect what we said, that no difficulty should arise in the case submitted to us because all officers appointed by the council hold office until removed by the council, so that their retention of office depends upon the pleasure of the council. If the appointment by ballot was invalid why could not the council insert the name of some other person in the by-law, and why should not that by-law, approved by a majority of the council and under the corporate seal of the corporation be perfectly good?

3. In answer to this, we have to say that the objections raised are cavilling. We were not asked to say whether two persons could be appointed to hold the one office. The council may by the one by-law remove one clerk from office and at the same time appoint some other person to fill his place. The information which we gave showed that the old clerk should be first removed. We used the words of the Act, and we have no doubt that the council understood from our answer that they had the right to remove their clerk and appoint another in his place.

High School Fees—Liability For.

135.—J. J.—1. The county council having abolished the fees on county pupils, can the trustees in high school district "A" charge fees on pupils coming from high school district "B" as provided by sub-section 2, section 37, both districts being in said county.

This is as we understand the meaning of sub-section 7, section 2, High Schools Act, 1896.

2. Or is the county liable for cost of maintenance of pupils from district "B" attending the school in district "A" as provided by section 31 of said act.

- 1. Yes.
- 2. No.

Council Not to Divert Watercourse.

136.—A. L.—The municipality of Mulmer has diverted two streams that crossed the road allowance opposite my land, and put the two into one and run it down the side of the road, to the detriment to me and the road.

Can a corporation of a municipality divert water from its original and natural course, where it crossed a public highway, and divert it down the road allowance as a detriment to the highway and to my real estate?

The corporation has no right to divert water from its natural course to the detriment of a private individual.

County Councillor in Separated Town—Deputy Reeves in Towns.

137.—D.—1. As this municipality has passed vote to withdraw from county of York would that disqualify a resident of this town from holding his present position as county councillor?

2. Is this town legally entitled to two deputy reeves when we do not have 1,000 qualified voters in the town, although there are over 1,000 names on our last revised voters' list, but many of them are repeated three times, having property in the three polling sub-divisions?

3. In answering the many questions asked you "Are we to have deputy-reeves in 1898?" should you not have included in your answer, yes, "where there are sufficient number of qualified voters on voters' list".

- 1. No.
- 2. See section 2 of Municipal Amendment Act, 1898, on page 20, February issue, MUNICIPAL WORLD. This does not affect the council for the present year.
- 3. Yes.

No Free Taxes for Mill.

138.—J.—In February, 1896, our village council offered, by resolution and published, to remit the taxes for ten years to any person or firm who would establish in the village a roller mill, to the satisfaction of the council. During said year a firm completed a roller mill that meets all requirements, but it was found that school taxes could not be remitted, and the council, in order to carry out the agreement, made a grant to the firm out of the contingent fund, of a sum equivalent to the school tax. Our village is incorporated, and all taxes are paid to the treasurer, out of which he pays the amount of the requisition from the Board of Trustees.

- 1. Can the council legally make the grant?
- 2. Can the firm compel the corporation to free them from all taxes on the mill for said ten years?

- 1. No.
- 2. No.

Farmers' Income Assessment.

139.—H. McD.—We are at a loss to know the proper mode of assessing farmers' income, that is, money out on interest. I give here an example:

Example No. 1—	
Suppose I owned a farm clear of all	
incumbrance, assessed at.....	\$ 4,000 00
Farm implements.....	200 00
I have in stocks, mortgages, notes,	
etc., at 5 per cent.....	4,000 00
Would be in some earnings, \$200.00,	
not assessable.....	
<hr/>	
Total assessment.....	\$ 8,200 00
Example No. 2—	
Assessed real estate.....	\$ 4,000 00
Farm implements.....	200 00
Stocks, mortgages, notes, etc., at 5	
per cent.....	10,000 00
Would be \$500.00 interest, being	
\$100.00 over exemptions.....	100 00

As referred to in section 7, clause 24, Assessment Act, 1892.....\$ 14,300 00

Please give correct example with sections governing same, and suppose those mortgages or stocks were in property, in other municipality, would it make any difference when the owners reside in our municipality?

Section 26 of the Assessment Act lays down the principle which the assessor is to adopt in valuing all property which is taxable. The farm and farming implements, given in example, are not exempt and ought to be assessed according to the

rule laid down by section 26. The income from the interest made in this case are exempt because it does not exceed \$400. In the case of income, other than that derived from personal earnings, only the excess above \$400 is taxable. See sub-section 24 of section 7. The principal money secured by mortgage upon land is exempt under sub-section 16 of section 7. As to stocks, see sub-sections 17, 18 and 19. If you will look at sub-sections 8, 9 and 10 you will see what the Legislature has defined "Property," "Land," "Personal estate," etc., to mean. By sub-section 10, "Notes" are "Personal property," and are assessable under section 7, unless we can find that they are anywhere exempted, and in looking carefully through the list of exemptions we cannot find that they are, and, therefore, they ought to be assessed at their actual value, as provided by section 26. In regard to the stocks and mortgages, you ought to have given the kind of stocks and mortgages and by whom held. The owners being residents of your municipality, are assessable thereon.

Service on Head of Municipality Under Drainage Act.

140.—W. G. W.—Section 61 of the Drainage Act, 1894, says that in serving a drainage report, it shall be served on the head of the municipality. Is this to be carried out literally or would such service as mentioned in section 15 of the D. and W. Act do? The Drainage Act does not seem to permit of its being done this latter way, and if the "head" was not at home or wished to avoid service, the party serving report would have a difficult job.

Let me cite a case according to the facts. The clerk of B sent by mail a drainage report to the clerk of E. He had done so before, worked all right and saved time and expense. The clerk of E acknowledged receiving it and I understand laid it before the council. Council neglected to appeal within the thirty days allowed and fault was found with them for not doing so. Then to gain time it was maintained that report was not legally served. The clerk of B was advised to serve it again. He sent a messenger to the residence of the clerk of E who got the report and went with it to the reeve's residence. He was not at home but the messenger left it with his wife getting a receipt from her for it. This latter service is also repudiated. Would you kindly advise how a service is to be made on such a "head" as the above?

The Drainage Act requires service upon the head of the municipality that is the reeve or other head officer. The provisions of the Ditches and Watercourses Act cannot be read into the Drainage Act.

Railroad Crossings.

141.—CLERK.—Two mining locations in this township opened up for settlement. C. P. R. runs through both locations. The municipal council have located roads for the benefit of the settlers. Two or three of these roads cross the railroad track; crossings have been asked for from the C. P. R. Co. but are refused.

- 1. Can company be compelled to give crossings? In this district there are no road allowances in the original survey but 5 per cent. is reserved by the government for roads and it is where the lines between lots cross the railway track that crossings are wanted.
- 2. What steps must be taken to get crossings?