

his colleagues on the board, PRIOR to nomination day. Since he did not do this he was disqualified under section 5 of chapter 29 of the Ontario statutes, 1902, "at the time of election."

2. Neither the clerk nor the reeve has any authority to take the proceedings suggested.

3. Neither the clerk nor the council has any power to interfere officially in this matter. A candidate is assumed to be qualified until proceedings have been successfully taken under section 219 of the Municipal Act to invalidate the election by the latter part of sub-section 1 of this section, "any candidate at the election, or any elector who gave or tendered his vote thereat, or, in case of an election by acclamation, any elector entitled to vote at a municipal election for the municipality, may be the relator for the purpose." If this party takes the declaration of office prescribed by section 312 of the Act, and the declaration of qualification required by section 311 (and the fact of his having been liable to disqualification as a member of a Public School Board at the time of his election will not preclude him from making these declarations), and no proceedings are taken to invalidate his election pursuant to section 219 and following sections of the Act, within six weeks after an election or within one month after acceptance of the office he can take and occupy his seat at the council board and transact his part of the business of the municipality the same as any other member of the council.

Qualification of School Trustee for Councillor.

54—J. M.—In the December issue your answer to question 509, can a trustee qualify as councillor, will you kindly state the section. I have failed to find it although I understood that a ratepayer could not sit for both offices.

Section 5 of chapter 29 of the Ontario Statutes, 1902, provides that "section 80 of the Municipal Act is amended by inserting therein after the word "trustee" in the eighth line the words, "and no member of a school board for which rates are levied," but this amendment shall not apply so as to disqualify any person elected, (that is to a municipal council), prior to the passing of this Act."

Qualification of School Trustee for County Councillor.

55—J. D. K.—Can public school trustee qualify for county councillor or how long would he have to resign before election day?

Section 80 of the Municipal Act as amended by section 5 of chapter 29 of the Ontario Statutes, 1902, provides that no member of a school board for which rates are levied shall be qualified to be a member of the council of any municipal corporation. "A county council is a "council of a municipal corporation," and a public school trustee is a "member of a school board for which rates are levied," and the latter cannot qualify as a member of the former. His resignation should

have been accepted before nomination day.

Penalty for Refusing to Act as Mayor or Councillor.

56—SUBSCRIBER.—Is there a penalty for refusing to serve as mayor or councillor, and what is the section of Municipal Act providing for it?

Section 319 of the Municipal Act provides that "Every qualified person duly elected to be mayor, councillor, etc., who REFUSES such office, or does not within TWENTY days after knowing of his election make the declaration of office and qualification where a property qualification is required, etc., shall, on summary conviction thereof before two or more justices of the peace, forfeit not more than \$80 nor less than \$8 at the discretion of the justices to the use of the municipality, together with the costs of prosecution."

Mover and Seconder of Candidate Should be Present at Nomination Meeting.

57—H. M.—Would you kindly let me know where you got your authority for stating (I think in your January and August Nos. 1900) that the mover and seconder of a nomination must be present at the nomination meeting? We have a case in point.

The first part of sub section 1 of section 128 of the Municipal Act provides that AT SUCH MEETING, (that is, the nomination meeting), the person or persons to fill each office, shall be proposed and seconded seriatim." It is to be observed that this proposing and seconding is to be done at the nomination meeting. The latter part of the sub-section prescribes the particular manner in which a candidate should be proposed and seconded at such nomination meeting, that is the nomination shall be in writing, stating the full name, place of residence and occupation of the candidate, and must be signed by the proposer and seconder. Following the express language of the sub-section under discussion all these things must be done at the nomination meeting and it seems superfluous to add that the proposer and seconder of any candidate must be present, to enable them to sign his nomination paper. *Persons who are not present at the nomination meeting cannot be regarded as forming part of the meeting and we cannot see how they can participate in its proceedings.

Auditor May be Appointed Deputy-Returning Officer.

58—A. R.—At the first meeting of the township council in 1902 they appointed auditors. At a meeting of the council in November one of the auditors was appointed D. R. O. Is it legal for the one appointed to act as such?

Yes.

Procedure at Council Meeting.—Adjournment of Annual School Meeting.

59—1. In appointing the officers for the township is it proper just to take one motion at a time for any one office and dispose of the motion, and if the parties that made the motion lose the motion can they make a second motion or vote on a second or third motion for that one

office? In case two councillors vote for one motion and the other two councillors vote for another motion and the reeve is not satisfied with either motion, what is the proper course to take?

2. The secretary treasurer of School Board put the legal notices up and the meeting was legally called. The ratepayers met and appointed chairman and secretary. But the secretary treasurer did not have the books properly filled out by the teacher and one of the ratepayers objected to the meeting being held, and they held no meeting. Was it necessary to put up notices to call another meeting or could they pass a resolution to adjourn the meeting to another date until the Secretary treasurer got the books properly signed?

1. Only one motion at a time can be considered and disposed of by a municipal council. If a motion is voted upon and declared lost, the same members who moved and seconded it, can move and second, and vote at the same meeting upon a second or any subsequent motion, having the same object unless there is a rule of order preventing it. If the reeve is not favorably disposed to either of two motions before the council, he can and should vote against them both.

2. A motion to adjourn the meeting to some future date put to and carried by the ratepayers present is all that is required. The posting up of additional notices, announcing the date to which the meeting has been adjourned is not necessary.

Public School Trustee Disqualified as Member of County Council

60—M. O' D.—At the municipal election for county councillor, county of O, division No. 7, W. B. and M. O. were candidates, O receiving the least number of votes. B is a trustee of the public school for a number of years and county councillor also for six years. I notified J. E. F., head returning officer not to declare him elected as he cannot qualify on account of his being a trustee of the public school, he cannot take the oath of office, and the trustees of the public school will not accept his resignation now. I ought to have objected to him at the nomination.

There is nothing in the declaration of office to be taken by a county councillor elect that would preclude this person from taking it under the circumstances mentioned nor has the returning officer any authority to refuse to declare him elected a member of the county council if he received a majority of the votes cast in his county council division and the nominating officer could not have refused to have accepted his nomination on nomination day notwithstanding the fact that an objection was raised to his qualification. This is a matter for the decision of the judge before whom proceedings to invalidate the election are heard. This person can legally take and occupy his seat as a member of the county council on taking the necessary declarations of office and property qualification, unless and until proceedings have been successfully taken against him pursuant to section 219 and following sections of the Municipal Act. Under the circumstances stated he is *disqualified* and his election may be voided