

not pass a resolution authorizing the appointment of a substitute for the clerk under section 283, until they had taken the declaration of office and qualification. The members should do this before some of the officials named in section 315, before attempting to transact any of the business of the municipality.

Voting on Money By-law.

141—W. B.—As the property owners of the town of Listowel at an early date will vote on a by-law for the purpose of giving a loan to a bent chair factory, would you kindly give me the following information by return mail?

1. Supposing an owner of property would dispose of that property and move out of town say to another county, could the present purchaser vote on the by-law, although his name did not appear either on the assessment roll or on the voters' list?

2. Our town is divided into five wards, if an owner has property in each of the five wards, can he vote in each of the wards?

3. If a person or owner rather, is assessed on the assessment roll for say \$150, can he vote on the by-law, or what qualifications does he require to have, as you are aware, if an owner is not assessed for \$200 in towns, although his name did not appear on the voter's list.

4. Have widows, as owners of property, a right to vote on this by-law?

5. Does it take a three-fifths vote to carry the by-law?

1. No. The purchaser is not rated on the last revised assessment roll of the municipality as a freeholder of property of sufficient value to entitle him to vote at any municipal elections, as required by section 353 of the Municipal Act, latter part of sub-section 1.

2. Yes. See section 355 of the Act.

3. No. If an owner is not rated at sufficient value to enable him to vote at a municipal election, on the last revised assessment roll of the municipality he is not entitled to vote on the by-law.

4. Yes, if they possess the necessary property and other qualifications. See sections 353 and 354 of the Act.

5. Section 366 (a), sub-section 1 of the Municipal Amendment Act, provides that "to render valid a by-law of the municipality for granting a bonus in aid of any manufacturing industry, the assent shall be necessary of two-thirds of all the ratepayers who were entitled to vote on the by-law, unless the number of ratepayers voting against such by-law does not exceed one-fifth of the total number entitled to vote, when the assent of three-fifths only of all the ratepayers shall be necessary, etc."

Assessment of Telegraph Line—Size of Polling Sub-Divisions.

142—J. C. M.—1. Where a telegraph line runs through a local municipality for ten miles, and have an office in municipality, can the municipality assess such line, and how would it be valued?

2. Vic. 63, Chapter 33, section 25, amends revised statutes, chap. 224, section 536, so as to substitute the figures 300 instead of 200, and 400 instead of 300, wherever they occur. Where less than these numbers occur in polling sub-divisions, can council make more polling divisions? Where fewer than these occur in polling divisions, is it the council's duty to form larger polling divisions so as to make them contain as nearly as possible the 300 voters?

1. The poles and wire of that part of the telegraph line located within your municipality can be assessed at their actual value, as so much dead material, but not as part of a going concern. As a result of the investigation of the assessment commission, an act will be introduced at the present session to abolish this method of assessing telegraph companies, commonly known as the "scrap-iron" mode of Assessment.

2. The councils of townships, cities, towns and villages, may divide their respective municipalities into as many polling subdivisions as the exigencies of the case and convenience of the electors required, provided that no polling subdivision shall contain more than 300 or 400 voters, as the case may be. Each polling subdivision should have well-defined boundaries, and the number of qualified electors in the several polling subdivisions shall be as nearly equal as may be. It is not the duty of the council to rearrange the polling subdivisions so that they shall contain as nearly 300 votes each as possible.

Fences Along Highways.

143—R. O. S.—In the township of East Nisouri, the opinion prevails that the municipal council have no power to compel any person, who owns real estate, to build a fence of any description between his property and the highway. But there are a few who believe that it is a part of the council's power (if they see fit to use it), and they quote chapter 223, section 545, sub-section 2, of the R. S. O., 1897, in support of their contention. Your opinion of this section will no doubt aid in settling the dispute either one way or the other.

A township council has no power to compel owners of lands along the highway, to build fences between their lands and the highway. The sub-section you quote, gives such councils power to pass by-laws for the purposes therein mentioned, but their provisions can only apply to fences along the highway, about to be, or erected, in case the owners see fit to build them.

What Constitutes Residence.

144—A. R.—A ratepayer, whom we will name John Smith, lived almost continuously in the township of A for nearly half a century, where he built up a good business and reared a large family, who still reside at A and help to carry on the business. Some time ago, he acquired another property in the adjoining township of B, which requires his attention during the greater part of each week. Saturday afternoons and Sundays, he nearly always spends with his family in A, and from Monday to Saturday at the residence in B. His wife, or one of his daughters, generally accompanies him to B, and keeps house for him during the week. In which of the townships should he be entered as resident and entitled to be an M. F. voter?

From what you say, the ratepayer has done nothing to change his residence from A to B, or to evidence an intention of doing so. Generally speaking, a person's domicile is the place where he has his permanent home, that is, where he and his wife and family generally and usually live, eat and sleep.

Collection of Dog-Tax.

145—H. S. M.—Did the legislature at last session make the dog-tax compulsory to begin this year not subject to repeal as formerly? I cannot find it in the amendments but think it was published in your WORLD. Please answer and make reference to the section, if correct.

Sections 2 and 8 of chapter 271, R. S. O., 1897, have not been repealed or amended, but are still in force as they appear in the revised statutes. This tax must be levied in each municipality, in Ontario, as provided in section 1, unless and until the council has passed a by-law pursuant to the provisions of section 2 of the Act.

Assessor Must Take Declaration of Office.

146—J. R.—By by-law, our council, some years ago, appointed a man as assessor at a salary of \$40 a year. This year the council passed another by-law appointing the same man assessor at a salary of \$5 a year. Now, this man says he was never dismissed by the council, therefore he is still assessor, under the old by-law, at the salary of \$40, and says there is no need of taking the declaration. What constitutes the dismissal of a municipal officer, if passing a by-law appointing another does not? Did the council act properly or not? There were other applicants for the office this year, hence the reduction of salary.

Sub-section 1 of section 295 of the Municipal Act provides that "the council of every city, town, township and village, shall, as soon as may be convenient after the annual election, appoint as many assessors and collectors for the municipality as they may think necessary, etc." The council should pass a by-law each year appointing an assessor or assessors. The same man can be appointed from year to year if the council deem it advisable to do so. A by-law appointing an assessor for an indefinite period, or a term longer than one year, is not in accordance with the above statutory provision and is therefore invalid, or, in any event, would have the effect of appointing the assessor only for the year in which it was passed. A new by-law should be passed yearly, appointing an assessor for the year at a salary to be agreed upon between the council and person appointed. In any event the assessor must make the prescribed declaration of office, before commencing the performance of his duties, etc.

Defective Drain Under the Ditches and Watercourses' Act.

147—J. A. R.—A drain under the Ditches and Watercourses Act was made late in the season of 1899, and for reasons not clearly known was not made on the proper watercourse. The engineer stated so at the time of making the award. The ditch has not proved successful. It has not a good waterfall, and consequently fills up. In the award the corporation is to maintain the greater portion of the ditch, and the party concerned in the benefit of the ditch notified the council in the fall of 1900 to clean out the ditch, which they have not done as yet. The party is now attempting to force the corporation to do the said work. Now, can the council be compelled to perform the work at this season of the year? If not, inform me, as the clerk, as to what steps to take in the matter. Can the council annul the said award, and have it made on the proper watercourse without spending any more money in the old