

turning out when meeting another rig his cutter runs upon this cordwood and upsets the cutter. The man thought this wood was bare ground as there was not much snow anywhere. The horse ran away and damaged the horse and cutter very much. Is the township liable for damages? If not who is?

If the corporation can be shown to have had actual notice of the existence of the danger, or if the pile of wood was on the road for such a length of time that corporation can be said to have been guilty of negligence in not having known of the existence of the wood, it may be held liable provided notice was given within the time and in the manner provided by section 606 of the Municipal Act. Section 609 gives a remedy over against the person who put the wood on the road, if he was not the servant or agent of the corporation.

Power to Set Aside Election—Owning Property not Sufficient to Entitle to Vote.

139.—Z. E.—At a public school meeting for trustee, at close of poll, vote stood 31 and 30 and chairman declared party having 31 votes elected. Party in minority appealed to inspector, who held investigation, cancelled the vote of a person living outside of section on the ground that he had paid no rate in the section though he owned property in section, rented tenant paying all taxes, and called on person who had acted as chairman at school meeting to give casting vote. Had inspector a right to declare party who had been declared elected unseated? Had the person owning property in the section on which he paid no rates a right to vote?

Section 12, of the Public Schools Act, states who shall be entitled to vote, and sub-section 7 of section 2 of the same act defines ratepayer. We think that the inspector had power to set the election aside and appoint a time and place for a new election. In a case of this kind he must either confirm the election or set it aside and appoint a time and place for a new election. He cannot, by a scrutiny of votes, declare that a minority candidate is entitled to the seat, and thereby obviate the necessity of holding a new election. See section 14 (8) of the Public Schools Act. Sub-section 7, of section 2, defines "ratepayer" to mean any person entered on the last revised assessment roll of the section for public school rates. It is, therefore, not sufficient that a man owns property in a school section to entitle him to vote. He must be entered on the last revised assessment roll for public school rates.

Municipal Election Forms.

140.—J. T. F.—I cannot see anything in the Act where instructions are given us to disposing of these or keeping them other than that Ballot Papers shall be destroyed after four weeks. Please say what should be done with the other forms and oblige.

Section 188 of the Municipal Act makes it the duty of the clerk of the municipality to retain for one month all ballot papers received by him from deputy-returning officers, and to then destroy them unless otherwise directed by an order of a court or judge. We are not aware of any statutory provision directing what the clerk is to do with

other forms, but we may say that he should be guided by such instructions as the council may choose to give him.

Re Borrowing Money for Bridge.

141.—T. P. CLERK.—The council of the township of G have been petitioned to build a bridge which will cost about \$1100, but have no funds on hand to pay for same. There never has been a bridge over this particular place, but the land is now occupied on both sides of stream and they are asking to have one built. The stream is about 34 rods wide, owing to the fact of a mill-dam backing the water up.

1. Can council borrow money to build this bridge and issue debentures for same payable over a period of three years without submitting by-law to the ratepayers, or would you consider this ordinary expenditure?

2. How can council legally raise this money payable as above, as it would be a hardship to raise all in one year, and they do not wish to go to the expense of taking a vote?

3. Can owner of dam be made to assist in building bridge if it can be proved that it could be built for far less money if dam was not there he having never got the privilege to flood highway. Dam has been there about 24 years?

1. The council cannot borrow the money and make it payable in three years, whether it is regarded as an ordinary expenditure or not, without submitting a by-law to the ratepayers. See section 389 of the Municipal Act.

2. It cannot be done without the assent of the electors

3. No. If he is flooding the highway without right (and we do not see how he could acquire such a right over a public highway) he can be enjoined from continuing to do so by an order of the court.

Special Waterworks Rate.

142.—T. M. C.—Should a special tax or rate as referred to in section 37, Chap 235, R. S. O., 1897, be levied and collected on personal property as well as on real property?

No.

Sergeant or Clerk—Non-Resident Tenant no Vote.

143.—D. D.—As clerk of the township I should like to know whether the duties of that office will prevent me from attending the annual drill at Camp Niagara. I hold the rank of sergeant in B Squadron 2nd Dragoons, and have been on the service roll for the past ten years without having missed a drill.

2. A is assessed as tenant in the township of B, where he resides. Across the townline in the township of C he is also assessed as tenant having never resided there. Is A entitled to vote in the township of C?

1. This appears to us to be entirely a matter between yourself and the council, whose servant you are. Your position as sergeant will afford you no legal excuse for neglecting your duties as clerk.

2. No. See sub-section 2 of section 86, and form of oath provided by section 113. A cannot be said to be a resident of the township of C.

Exemption of Mill.—Assess Cheese Factories.

144.—A. S. L.—J. F. T. buys a mill site upon which there had been a mill, but was burned. He came to the council and they exempted him from taxes for four years with the understanding that he was to build a mill. He has built the mill? Could the council remit the taxes legally, or should they have assessed the property and then remitted them? A

ratepayer claims that they must assess the property and cannot remit the school-tax under any circumstances or exempt the mill from being taxed. They did not assess it last year consequently if exemption was illegal the council would be liable for the amount of taxes.

2. Cheese factories of which there are four in township have never been taxed. Has the assessor any right to exempt them or must he assess them?

1. Two-thirds of the members of the council have power to exempt any manufacturing establishment from taxation, except as to school taxes, for any period not longer than ten years. It was the duty of the assessor to have assessed this property, because it is not exempt from school rates. We cannot say whether there is a binding contract between J. F. T. and the corporation to entitle him to insist upon the exemption of his property as to other rates or not. Assuming that there is, the council cannot collect any taxes except school rates. The ratepayer is right in his view. We do not agree that the members of the council are liable personally. See section 411 of the Municipal Act, sub-section 3 of section 67 of the Public Schools Act, and section 55 and schedule E of the Assessment Act, and section 247 and following sections of the Assessment Act, under the head of "Responsibility of Officers.

2. We are not aware of any authority for an assessor omitting these factories from assessment.

Time for Nominations

145.—W. W.—I see by the Mail and Empire of Toronto of the fourteenth of February, a decision given by Chief Justice Armour, who ruled yesterday that Nominations for Municipal Elections may be received at any time during the day set for them. The learned judge held that only in the case of a solitary nomination was the time limit of one hour in effect.

Kindly inform me where the learned judge gets his law in the matter and how the nominations are to be made? We have held our nomination at 7.30 p. m. on the 26th December last and kept it open till 8.30 same evening taking for granted that was the law. R. S. O., 1897, chap. 223, section 120.

The following is a copy of the report of the case to which you refer:

"Re E. J. Parke,—W. H. Bartram, London, for the applicant in person appealed from an order of Meredith J., in Chambers, at London, dismissing a motion for a mandamus to the Police Magistrate for the city of London, to compel him to issue a summons upon an applicant's information, and complaint against one C. A. Kingston, the corporation clerk for the city of London, for his conduct, when acting as returning officer at the London municipal elections for 1899, in receiving nominations for the office of mayor after the lapse of an hour contrary to the statute. No one appeared to oppose the appeal. The Court dismissed it with costs."

The decision of Chief Justice Armour has no doubt been a surprise to the clerks throughout the Province, because we believe that the almost invariable prac