

intention and meaning of the qualifying words: "Where such land is occupied mainly for the purpose of its business." I do not think that where the words of the Act are to me explicit and plain I should go beyond the express words and endeavor to read into them any other than their ordinary meaning. The antecedent of the words "such land" in clause "C" may be found in the first part of sub-section 1 and is there shown to be land used or occupied by any person. There is no doubt as far as this case is concerned that land is used and occupied in the municipality by the appellants. The evidence of their agents made this clear when taken in connection with the definition of land in the interpretation section. I have no doubt that the appellants come within the scope of the words "carrying on business or in connection with the railway company." It seems to me, therefore, that all the requisites to entitle the municipality to place, as they have done here, the minimum business assessment upon the appellants are to be found, and I therefore dismiss the appeal. From the evidence a portion of the building would seem to be set apart entirely for the use and occupation of the appellants.

#### Clerk May be Also Treasurer.

435—A. J.—Would it be legal for the township clerk to act as treasurer also when the taxes collected are all deposited in the bank and all money expended is paid by cheque through the bank issued by reeve and treasurer, which would save part of salary for an extra man? In former years, when we had no bank convenient, orders were issued by the reeve and clerk on the treasurer, who cashed them, which made it compulsory to have the extra man for treasurer.

The clerk of a township municipality can also legally hold and perform the duties of township treasurer.

#### Owner of Dock Liable for Business Assessment—Powers of Court of Revision.

436—J. W. K.—1. Is a dock liable for business assessment?

2. In 1905 dock was assessed by assessor, but not for business tax. The Court of Revision added the business tax and adjourned the Court of Revision, notifying the parties where changes were made. The manager of the dock claims he did not get his notice and will not pay the taxes. Can it be collected?

1. If the owner of the dock is carrying on the business of a wharfinger therewith and thereon, we are of opinion that he is liable to the business assessment mentioned in clause (h) of sub-section 1 of section 10 of The Assessment Act, 1904, calculated on the assessed value of the dock, and the land used and occupied in connection therewith.

2. The Court of Revision did not proceed as the statute authorizes. The omission of the business assessment was not such a palpable error as the court could correct of its own motion under sub-section 19 of section 65 of the above Act. The court should have extended the time for making complaints ten days further, and had the assessor or some other ratepayer file an appeal to have the business assessment added to the dock owner's assessment. We do not think the taxes on the business assessment can be collected under the circumstances stated.

#### Appointment of New Clerk—Procedure at Court of Revision.

437—J. B. N.—1. Clerk was appointed by by-law. Secretary was first appointed. Motion was put to appoint a clerk, "carried," one of the councillors took the chair and read by-law, after which vote was taken—"Yes" and "No" for candidates. Reeve called for one candidate voted "Yes," followed by two councillors who also said "Yes," thus electing first candidate. Now, sir, I would like to know if the reeve had a right to vote this, or if he is only privileged to give a casting vote when same would have been a tie. Should he not have waited until the councilmen voted? This seems to my mind to have been pre-arranged by Reeve and two councillors. If proceedings are not legal, what steps should one take to declare clerk not legally appointed?

The by-law was put through first, second and third reading, and then passed.

2. What are the proper proceedings at Court of Revision and of entering names on roll?

1. The reeve has the same voting powers on questions considered by the council as any other member. Section 274 of The Consolidated Municipal Act, 1903, provides that "The head of the council, etc., may vote with the other members on all questions; and except where otherwise expressly provided by this Act, any question on which there is an equality of votes shall be deemed to be negatived." In this case, the clerk appears to have been appointed by a by-law of the council. If this by-law is properly framed and received the concurrent votes of at least three members of the council, as required by section 269 of the above Act, we think the clerk has been legally appointed. The occurrences mentioned previous to the passing of the by-law do not in any way affect its validity.

2. The procedure to be followed at courts for the revision of the assessment roll will be found in section 65 of The Assessment Act, 1904. Sub-section 2 of this section makes provision for the entering in the roll by the clerk of changes made by the court.

#### Business Assessment of Owners of Stallions Etc.

438—T. G.—1. Are owners of stallions, bulls, etc., who keep them for breeding purposes, and doing such business with them liable for business assessment and taxes?

2. Are owners of stallions who travel them for breeding purposes, and doing such business with them through the season, liable in every municipality they travel in to the amount of business they do for business assessment and taxes?

1. These cases are pretty close to the line. If, however, the owners of the animals use and occupy any premises for the purpose of carrying on the business, and are assessed for such, they are liable to the business assessment mentioned in clause (h) of sub-section 1 of section 10 of The Assessment Act, 1904, calculated on the assessed value of the land so used and occupied.

2. No.

#### Statute Labor to be Calculated on Business Assessment.

439—G. G. G.—1. Can statute labor be legally levied on business assessments in townships?

2. Is the Canadian Northern Railway exempt from statute labor on their assessment in townships?

1. Yes.

2. No.

#### Assessment of Saw Mill and Power Co.

440—Our assessor assessed a saw mill newly started, newly built (personally I have not seen it), and it employs about twenty to twenty-five hands, as follows: Mill land, \$100 for three acres; building, \$200; machinery, \$200. On talking to some of the councillors he proposed to raise the assessment on Court of Revision day, but sent the owner no notice to be there, and the question came up then. He had returned the roll to me as Township Clerk before April 30. He also acknowledged the assessment was too low, but wanted to give the owner a chance.

1. Could the Court of Revision raise the assessment under the circumstances, no appeal having been made and no notice served?

2. What would have been the right steps to take to have had it raised?

3. Was his assessment on the saw mill, engine, etc., legal?

4. Was the assessor right in taking the view he did, or should he have assessed to full actual value?

We have a power company formed here who paid \$4,300 for a certain piece of land and the power, on appeal the Court of Revision lowered the assessment to \$2,500, considering it worth no more than it was last year when it was assessed as farm lands.

5. On what should the assessment be based? The price paid was actually more than it was assessed for, and the power is a good one but not yet developed.

5. Should the buying price rule, or were the council right in saying it should not be valued at much more than farming lands?