

QUESTION DRAWER

SUBSCRIBERS only are entitled to opinions through the paper on all questions submitted if they pertain to municipal matters. Write each question on a separate paper on one side only. When submitting questions, state as briefly as possible all the facts, as many received do not contain sufficient information to enable us to give a satisfactory answer.—Ed.

COUNCILLOR.—Is it compulsory for school section to furnish schools and school room for orphan children distributed through the section? Several ratepayers have from one to five of these children for whom they received pay monthly. Our school which is large enough for ratepayers' children is now overcrowded with those orphans. Do we have to build a larger school-room to accommodate those children from Dr. Barnardo's home?

No discrimination can be made between these children and ratepayers' children.

T. W.—In Query, question 3, page 195, of the WORLD, for October, if man referred to does not participate in treasurer's salary and does not pay all orders, do you think he is qualified?

Yes.

J. McN.—Our school board has asked the council to submit a by-law to the ratepayers for the purpose of raising \$10,000 to purchase a school site and building a new school house.

1. Does it require a majority only or a 2-3 majority of the votes to carry such a by-law?

2. In case of persons entitled to a vote, not voting, does their vote count for or against the by-law or does it count at all?

1. The majority only.

2. The fate of the by-law must be determined by the votes cast only.

C. B.—1. Application having been made to a council to open a boundary line between two townships by having the fences removed off the same, is a motion passed by the council sufficient or will a by-law be required to compel the parties to remove the fences?

2. What is the meaning of sec. 100, s. s. 2, Consolidated Assessment Act, 1892, as our council disagree on its meaning? Does it only apply to lands of non-residents or to residents also? Must the lands of residents be assessed for statute labor in two hundred acre lots or can they be rated on each hundred separately?

3. Is a township treasurer compelled to accept money from the collector whenever or wherever offered to him in the municipality?

4. Two parties have one lot of 100 acres, the one having the front 50 acres and the other the rear. Part of it is swamp. They have a line-fence along the part that is cleared, but have no line in the swamp. They have it fenced along the fence road. The one party's cattle gets through the swamp into the other's lot, and the other tells him to keep his cattle at home, and he replies that he will build his share of the line, but the other will not consent to build his. Can the one party pound the cattle or can the fenceviewers decide between them and compel each to build the line?

5. If a treasurer is robbed of money or loses through the failure of a chartered bank in which money is deposited, not being authorized by the council to deposit in the bank, has the treasurer or his sureties to make good the loss or does the council lose the money?

1. A by-law must be passed by each township council having jurisdiction over the road, or application must be made by one of the townships or a majority of the ratepayers resident on the lots bordering on either or both sides of said lots by petition to the county council under section 556 and following sections of the Consolidated Municipal Act.

2. Section 3 of the Assessment Act entitles a non-resident to have his name entered upon the assessment roll, and where such non-resident has had his name

so entered upon the roll he is placed upon the same footing as a resident under this section. The marginal note appears to us to be misleading. Statute labor must be rated against every separate lot or parcel, but where a person is assessed for lots or parts of several lots in one municipality not exceeding, in the aggregate, 200 acres, the aggregate number of days' statute labor has to be based upon the aggregate value of the several parcels according to the scale provided for by sections 92 and 93. To illustrate this, suppose A is assessed for five separate parcels at \$140 each, under section 93 he ought only to be charged with four days' statute labor. If the statute labor were rated upon each part separately he would be required to perform ten days' labor.

3. The Assessment Act does not fix any place where the taxes are to be paid. They ought, however, to be paid to the treasurer at his office. The taxes might be tendered to him at a time and place when he might be quite justified in refusing to accept them, but notwithstanding such refusal it would still be the duty of the collector to pay them over.

4. This case comes within the jurisdiction of the fenceviewers. In order to express an opinion as to the right to impound, it will be necessary to know whether a pound by-law is in force and what provision it makes.

5. If the treasurer has not been guilty of negligence, neither he nor his sureties are liable for the loss. Without any resolution of the council it would be a proper thing for the treasurer to keep the money in a good, chartered bank. The treasurer would be guilty of negligence if he did not keep it there, unless he had some equally safe place for keeping it. To fasten the liability upon the treasurer in case of robbery it would be necessary to make out that he was negligent in some way. For example, suppose that he carried it around with him or kept it in his house without depositing it in some safe place. The late Chancellor Spragge, in 1879, in the case of Houghton vs. Freeland, defendant being treasurer of a municipality, kept his money in his house, there being no proper place for depositing the same provided by the municipality, and there being no bank in the county within a distance of thirty-five miles. Held, that under these circumstances the treasurer was not liable to make good to the corporation the amount of loss sustained by the accidental burning of his house and the destruction therein of the moneys of the municipality; and that his own statement, under oath, which appeared satisfactory to the court, were sufficient evidence to exonerate him from liability.

F. J. C.—1. If our council should wish to change the date for the return of the collector's roll from the 14th day of December, the date fixed by statute, then should they pass a by-law for that purpose before or after the 14th day of December?

Some persons here claim that the change cannot be made by the council until after the 14th day of December.

2. If the council should pass a by-law changing the date for the return of the roll to some day in 1896, before the 1st of February, then is it necessary to notify the collector's sureties of that fact in order to hold them responsible on the bond?

1. The council should pass a by-law before the time for returning the roll has expired, otherwise the collector would have to return it within the time limited by the Act.

2. No.

E. S. R.—1. Our council have imposed by by-law under sec. 53 of the assessment act a percentage of 5% on all taxes, payable in bulk and not paid on or before the 14th day of December. In pursuance thereof, it will be the treasurer's duty to add how much on the 1st of May next.

2. How do you harmonize sub-sec. 53 which provides for a discount for the prompt payment of taxes before, say November 15th, with sub-sec. 4, which imposes a percentage if not paid on or before the 1st of November. The effect of a by-law framed in accord with the above, would be, would it not, to add say 5% on a person's tax not paid on the 1st November, and then take 5% off again on the 15th November?

3. Allowed his land to go in arrears for taxes and it was sold in 1893 for arrears of the three previous years. He has since been assessed for the land and has paid the taxes i e for 1893 and 1894. He now discovers his land was sold and too late to redeem. Does the fact that he paid taxes these two years excuse him for his omission or failure to redeem his land?

1. The treasurer must add to any balance remaining unpaid on May the 1st, 5 per cent. thereon.

2. Sub-section 4 applies to non residents whose names have not been entered on the assessment roll only.

3. No.

H. J.—In the June number of your valuable paper you say that it is not legal for the clerk of a municipality to hold the office of treasurer. On what do you base your opinion?

Section 271 of the Consolidated Municipal Act of 1892 was enacted in its present form to prevent or make it illegal for one person to hold more than one of the offices mentioned therein. A man holding one office could not make proper declaration for another.

M. E.—Will you kindly inform us through the next issue of THE WORLD the proper method of carrying on an election for school trustees, when the election is required to be held at the same time and place as elections for municipal councillors? When and how nominations are made? Whether separate ballot papers are required, what publication is necessary, forms, voters' lists, return forms, etc., and any other information you deem proper. Where can forms be obtained? Must the annual school meeting be held as when ordinary elections took place.

Who is liable for expenses of elections, printing, publishing, etc.?

Section 103 of the Public Schools Act, sub-sections 3, 4 and 5, define the mode of conducting an election for school trustees by ballot. The nominations are to be conducted at the same time, by the same returning officers and in the same manner as nominations for aldermen or councillors under the provisions of the Municipal Act.

The clerk of the municipality is required to prepare a separate set of ballot papers for all the wards or polling sub-divisions containing the names of candidates nominated for school trustees in the same form