

Purchasing a Road.

419.—T. B. M.—Our council bought the right of way for a new piece of road on private property, 50 feet in width, paid for it and got the deeds, properly executed and registered. The road was opened and surveyed by a P. L. S. and work has been done along it. Now is it necessary to pass a by-law to establish said road or is it now a legal highway?

We do not think so. We are assuming, of course, that all persons interested or affected have made conveyances. You had better look at section 630, Cap. 223, R. S. O., 1897, and see whether the council has observed the provisions of that section.

Illegal Contract.

420.—E. B. M.—1. About four years ago a ratepayer of this township owned a lot of land with no road opened leading to it. A sum of money accrued against said property as taxes, and the municipal council granted the amount to the owner of land for the purpose of opening a concession line. The contract has never been fulfilled and the amount has not been carried forward on the roll from year to year. Will it disqualify owner of land from holding the office of reeve or councillor in said township?

2. Can he be compelled to fulfil contract if not pay money?

We do not think the council had any power to make such a contract. It was, in effect, an attempt to exempt the lands from taxation. But though we do not consider the contract a binding one, we are, nevertheless, of the opinion that he is disqualified. In the case of Regina ex rel Fluett vs. Gauthier the facts were as follows: "The trustees of a common school in the town of Sandwich, being about to erect a schoolhouse, the defendant, Gauthier, offered to supply a certain quantity of brick to them for that purpose. They told him that if the town council would agree to pay him for the brick they would take them. He then said that he would take payment for them by letting the amount go against his taxes in each year, with interest at eight per cent. upon the whole amount unpaid. This proposition was made by defendant in person to the town council and was accepted by them. The defendant furnished the bricks. John Wilson, J., in giving judgment said: "I do not think it necessary that a valid contract should be shown, binding on the corporation to disqualify the contractor from sitting as a councillor of such corporation. If there is no contract binding on the corporation, the danger is the greater if the party improperly uses his position to his own advantage, and to the prejudice of the municipality. The policy of the law is that no man shall be a member of a municipality who cannot give a disinterested vote in a matter of dispute that may arise. If his judgment is likely to be clouded by self interest in a matter of contract or quasi contract, he should not be a member of the council."

Farmers Sons and Voters Lists.

421.—SUBSCRIBER.—There is a difference of opinion in regard to the legality of placing the name of a farmer's son on part one of the

voters' list as F. S. and M. F., who has been away more than six months out of twelve prior to the return of the assessment roll by the assessor, either teaching school or as a student. I see nothing in the Municipal Act giving him a right to be on. The Manhood Suffrage Act I think gives him the right to be on part three.

1. Can he legally be placed on part one?
2. If on, can he take the oath of a farmer's son?
3. If he does, would it be perjury?

1. It is the duty of the clerk to prepare a voters' list, containing the names of the persons appearing by the assessment roll to be entitled to be voters in the municipality. See section 6, Voters' List Act, Cap. 7, R. S. O., 1897. It is not the business of the clerk to take evidence to determine whether he is rightly on the assessment roll in any practical capacity. That must be left to the judge, who, if there is an appeal against the right of the voter to be on the voters' list, may hear evidence and strike his name off, or confirm his right to be on.

2. A person is deemed a resident notwithstanding occasional or temporary absence. As a student in an institution of learning in the Dominion of Canada, but this does not apply to a person teaching school. See s. 112, the Elections Act, 9 R. S. O., 1897.

3. Yes, if wilfully and corruptly done.

No Wards or Deputy Reeves.

422.—J. O. M.—I understand by your editorial on deputy-reeves that townships are still in wards and that deputy-reeves need not be elected in future. As I understand the statutes as amended by the session 1898, all townships are out of wards and deputy-reeves are still to be elected by a general vote over the whole township.

1. Are wards abolished in townships for election by Act of 1898?
2. Are deputy-reeves still to be elected under the same sections referred to above?

1. The act of 1898, does not in express terms abolish wards, but it provides that the reeve and councillors shall be elected by a general vote. The elections must therefore be by general vote without any regard whatever to the divisions of the municipality into wards.

2. Sec. 73 of the Municipal Act, Cap. 223, R. S. O., 1897, as amended by the act of 1898, now reads: "The council of every township shall consist of a reeve, who shall be head thereof, and four councillors, who shall be elected by a general vote." Under this act nominations are to be made for the positions of reeve and four councillors only. There are to be no nominations or any election of deputy-reeves.

Municipal Councillors May be Candidates for County Council.

423.—A. M.—The County Council Act, 1896 states that no member of the local council shall be eligible for nomination or election for a county councillor, also required to have the same property qualification as the reeve of a town.

1. Is there any change since?
2. Having or owning a property in the county to the assessed value of \$2,500 as follows: In

the divisions where I live I am assessed for \$6,400, and own a farm in it, but not assessed for it, possibly assessed to upwards of \$200, and the balance of \$2,500. Could I qualify for a county councillor?

3. Being a member of the local council am I eligible for nomination and election to end of year?

4. Would I have to be assessed the \$600 in this division, or would it do to be worth \$600?

1. Yes. Section 81, Cap. 223, R. S. O., 1897 provides: "Any person having the necessary qualifications, and not disqualified, who is a member of a local municipal council for the year in which nominations are held for the election of members of the county council, shall be eligible for nomination and election as a member of the county council at such election; but no member of a council of a local municipality shall sit or vote as a county councillor, &c."

2. Section 77 provides: "Every member of a county council shall possess the same qualification as a reeve of a town is required to possess, and shall also be a resident of the county council division for which he is a county councillor." Sub-section 1, of section 76 requires a rating in his own name, that is the name of the candidate, or the name of his wife, on the last revised assessment roll of the municipality, to at least the value following, over and above all charges, liens, and encumbrances affecting the same. In towns; freehold to \$600 or leasehold to \$2000." This language is not apt in the case of a county, because there is no assessment roll for the county. It surely cannot refer in the case of county councillors to the municipality in which the county councillor resides, because a division might be composed of parts of several municipalities, and a councillor might not have enough property in the municipality in which he resides but have ample property in the division. Nor do we think it is to be confined to the division, because we can find nothing referring to a division, so far as the qualification is concerned. We are, therefore, of the opinion that if a councillor has sufficient property in the county, to the value above stated, he is eligible, but we think there must be a rating upon the assessment roll to, at least, the value stated, over and above encumbrances.

When subscribers desire to know whether they have sufficient property qualifications they should state the nature of the property, whether freehold or leasehold, its assessed value, the amount of encumbrance and, if leasehold, the length of the term, but from what we have stated above, you can easily determine whether you are qualified.

3. You are eligible to be nominated and elected a county councillor for the year 1899.

4. It is the assessed value which governs, not the value of the property.

Visitor in France—What a terrible political crisis! Degenerative Citizen—Oh, you just wait till 1900, the year of the Exposition!