

manner provided by section 238 or 240, the candidate having the next highest number of votes shall then become the member of the council under section 241.

Opening of Road allowance.

158—A. A. Y.—With regard to the opening of road between concessions due notice of which has been given by publication of surveyor's description in full and posting notices as required by stating time also said by-law is to be passed. The point has been raised that "no council can force a road through deeded property unless there are two families without a way out." Is there any such law? I may say further that there is only one family shut in but the opening of said road is necessary to give other children a way to school within reasonable distance.

We know of no such legal provision as that stated. It is optional with the council as to whether it opens this road or not, and it should not do so, unless the needs of the general public require it. As to this the council should exercise its judgment, after having carefully considered all the facts and circumstances of and incidental to the particular case.

Collector's Duties as to Collection of Taxes.

159—SUBSCRIBER.—1. Collector's Roll returned to Tp. Treas. Feb. 2nd, 1903, with arrears of taxes say \$10 uncollected. The amount set down in Collector's Roll against said property say \$14. Now the Collector collected from present occupant the sum of \$4 being the amount levied for 1902 and has been unable to find the real owner of said property, believing him to be the proper person to recover the balance \$10 from. Roll returned with that amount unpaid as stated above.

Should the Collector recover the full amount from present occupant and upon his refusal to pay after the 14 day's notice prescribed by law, seize and sell chattels to recover the full amount?

1. It is not stated whether the "occupant" is the person who is actually assessed for the premises in respect to which these taxes are payable in 1902 and whose name appears upon the roll for that year as liable therefor. (See clause 1 of sub-section 1 of section 135 of the Assessment Act). If he was so assessed the collector should have realized the whole amount of these taxes out of the goods of the occupant, and he should return to the township treasurer only such balance as he could not realize in this way. The roll for 1902 having been returned by the collector to the township treasurer, on the 2nd February last, the collector has no further authority to collect, in any way, any of the taxes on this roll.

2. The treasurer's only alternative is to return these unpaid taxes to the county treasurer, as required by section 157 of the Assessment Act, and leave the parties interested to fight out the question of liability amongst themselves.

Granting of Bonus to Woollen Mill.

160—J. M.—The proprietors of a woollen mill in our village has asked our council for a bonus of \$500 per year for a term of 15 years and also exemption from taxation (except school rate) and our council wants to know if this can be legally done by them. At the present time a by-law is in force granting the above men-

tioned proprietors the sum of \$100 per year and would also like to know if this would have any effect on the above.

A by-law making provision for the granting of this bonus can be legally passed for a term of 10 years, but not for a term of 15 years, if the requirements of section 9 of chapter 33 of the Ontario statutes, 1900, are first complied with. The council must first satisfy itself, however, that if it grants this bonus, it will not be transgressing the provisions of clause (f) of sub-section 12 of section 591 of the Municipal Act, as enacted by the above section.

Appointment of Men to Check Work of Assessor.

161—D. B.—Our council propose to appoint two men to go around the township with the assessor and assist him in making his assessment as they consider that three men would make a more complete assessment than one man. Would it be lawful to do so?

We do not think so. Section 295 of the Municipal Act empowers a council to appoint as many assessors as they may think necessary, but this means that a council may sub-divide a municipality into certain districts and assign to each assessor a certain district, and it is the duty of each assessor to assess property in the manner provided by the Assessment Act. We may say that it seems to us a novel procedure to appoint two or more men to tag after an assessor and dictate to him how he should assess property.

Validity of Petitions Under Toll Roads Act of 1901.

162—S. R. W.—There were several petitions filed with county clerk over 18 months ago. The county council took no action on the case. We are now threatened with a writ to compel us to appoint arbitrators.

1. There having been some amendments passed by the Legislature in 1902 and since the filing of the petition what effect, if any, does that have upon such petitions?

2. Are the petitions now in full force having been in the hands of the council for more than 18 months?

3. Is there any doubt as to the council being compelled to act under clause 4 of chapter 33 of the Statutes of 1901 and amendments thereto?

The petitions referred to were signed by the requisite number of ratepayers in the several municipalities.

1, 2 and 3. Section 4 of chapter 33 of the Ontario statutes, 1901, pursuant to which these petitions were presented, was repealed by section 1 of chapter 35 of the Ontario statutes, 1902, and the latter statute contains no provision preserving the efficacy of proceedings instituted under the former section. Sub-section 1 of section 1 of chapter 35 of the Ontario statutes, 1902, in addition to the provision for the appointment of arbitrators, contained in section 4 of chapter 33 of the Ontario statutes, 1901, contains a provision for the entering into an agreement as to the amount to be paid for the toll road between the owner or owners and the county, so as to obviate the necessity for the appointment of arbitrators to settle the matter. We are therefore of opinion that

the petitions filed pursuant to section 4 of chapter 33 of the Ontario statutes, 1901, are worthless, and that the county council cannot now be compelled to act upon them, but that proceedings, with the desired end in view, should be instituted and carried on under the authority of section 1 of chapter 35, Ontario statutes, 1902.

Qualification of Councillor.

163—COUNCILLOR.—Can a trustee for the year 1903 legally qualify as councilman for same year or is the business transacted with him sitting as councillor legal. Have had our January meeting, was the business of that meeting legal and what is the proper steps for him to take? In case a trustee's three years expire at close of 1902, must he resign prior to nomination?

It is not stated whether this man was a member of the School Board on nomination day (29th December last.) If he was, he was disqualified as a candidate for councillor under the provisions of section 5 of chapter 29 of the Ontario statutes, 1902. If he was elected such trustee at the annual school meeting last year (31st December) he should resign the office of school trustee in the manner prescribed by the Public Schools Act, 1901, (section 16) at the earliest opportunity, otherwise he will be disqualified from holding his seat in the council, under the provisions of section 80 of the Municipal Act as amended by section 5 of chapter 29 of the Ontario statutes, 1902. In either event the business hitherto done by the council has been legally transacted. This man can disclaim his seat in the council pursuant to section 238 or 240 of the Municipal Act, in which event the candidate having the next highest number of votes will become entitled to the seat.

In previous answers to correspondents in respect to questions of the like nature to this one we may possibly have given a wrong impression in not distinguishing between the case of a person who on nomination day had not sufficient property qualification and a person who is disqualified under section 80 of the Municipal Act. In the case of the former the test is whether he had sufficient property qualification on nomination day, and if he had and no proceedings are taken within the time limited by the Act he is then entitled to hold his seat for the rest of his term, but in cases of disqualification under section 80 a person holding a seat in any council must resign his seat, and in case of his neglect to do so proceedings may be taken under section 208 of the Municipal Act and the sections in that section referred to for the purpose of unseating him.

Same Person Can be Clerk of Two Townships.

164—F. L.—I have been appointed clerk of two townships and as I see nothing in the statutes against my being clerk of more than one township at the same time, I wish to hold them both. Is there anything in the law to prevent my doing so.

No.