

of 5% will be put on all taxes unpaid by said time, by order of council." Now this was a resolution not a by-law. This has been on the collectors receipts for some time or years but has never been put in force. Now the council instructed the collectors to collect the 5% after the 15th. as the 14th. came on Sunday. There has always been trouble in getting the taxes all collected, some taxes not being paid until July of next year. Will this law stand if we have trouble? The collectors were instructed at the November meeting, by motion, to collect it, and it was inserted in the minutes of that meeting.

Section 60 of the Assessment Act (as enacted by section 4 of chapter 27, of the Ontario Statutes for 1899) provides that the Council may BY BY-LAW allow a discount for the payment of taxes on or before a day or days therein named, and may impose an additional percentage charge (as the Council has attempted to do in this case) for non-payment of such taxes, etc. The Council cannot legally enforce payment of the additional percentage in this case submitted. As the Council did not pass a by-law in this case, the collector cannot lawfully collect the additional 5 per cent.

Qualification of Assessor as Councillor.

27—CLERK.—A person having acted as assessor of the municipality for the year 1902, and having been settled with in full for his services, would he be eligible to be elected as a councillor to serve during the year 1903? If not, what chapter and section touches on the matter?

Unless this person resigns his office of assessor and has his resignation accepted by the Council prior to NOMINATION DAY, he will be disqualified as a candidate for Councillor. Sub-section 1 of section 80 of the Municipal Act provides that "no ASSESSOR, etc., shall be qualified to be a member of the Council of any municipal corporation."

Appointment of Municipal Officers by Tender.

28—H. C. G.—Our Council appointed their collector and made the appointment without regard to advertising or asking for tenders for the vacant office. Some of our ratepayers say that the vacancy should be advertised and applications for same asked for, and that the Council overstepped their bounds in making the appointment otherwise. Kindly give your opinion and reference to the proper Statutes relating to said appointment.

A Municipal Council has no right to advertise or ask for tenders for the filling of the office of collector, or any other office in a municipality. It would be proceeding irregularly, illegally and in direct contravention of the Statute if it did so. Sub-section 2 of section 320, of the Municipal Act, provides that "No Municipal Council shall assume to make any appointment to office, or any arrangement for the discharge of the duties thereof, by tender, or to applicants at the lowest remuneration."

Payment of Extras to Bridge Contractor.

29—J. N. R. Last year our Council let a contract, a stone abutment for a new bridge, early in the year. No water was flowing in the stream for two months. The contractor put off his work until late in the fall, then wet weather

set in and he had a good deal of trouble and extra work towards it. When completed the council paid him balance, and \$25 for extra and stone, after the 14th of December. The said contractor came before the Council at the special meeting, and claimed that he had lost heavily through the flood. Then they gave him \$100 extra, more than contract. It was kept away from ratepayers last year, and now it comes out on the statement. Can the Council do so legally?

If, in the exercise of their judgment, the members of the Council considered themselves justified under the circumstances, in paying the contractor the extra amounts mentioned, we do not see that they were acting illegally in so doing. Had they refused to do so, it would be a question as to whether the contractor could have succeeded in enforcing his claim against the municipality for the alleged extras.

Qualification of School Trustees.

30—A. O.—When should School Trustees resign positions so as not to void their election as Municipal Councillors—at municipal nomination, or before annual school meeting? Or would it not be soon enough when elected? Would being trustee disqualify them,

1. From being nominated?
2. From being elected?

Could they run the gauntlet of election before being compelled to resign, or must they elect which place they are going to run for?

1 and 2. A candidate for any municipal office must possess the necessary qualification "at the time of the election." (See section 76 of the Municipal Act.) The "time of election" begins on nomination day, therefore any candidate nominated must be qualified at the time of his being placed in nomination. Any person who is now a member of a School Board for which rates are levied must resign his membership of such Board, and his resignation must be accepted by his colleagues on the Board PRIOR TO NOMINATION DAY, in order to qualify as a candidate for Councillor in his municipality. (See also section 80 of the Municipal Act, and section 5 of chapter 29 of the Ontario Statutes, 1902.)

Declaration of Election, When Council, by Resignations, Elected by Acclamation.

31—D. D.—If candidates resigning after nomination meeting leave the exact number required, when and where does the clerk declare the remaining candidates duly elected? I think the Act does not supply this information.

That part of the Municipal Act referring to this matter is sub-section 4 of section 129. It provides that if by reason of the filing of resignations within the time and in the manner mentioned in the Act, the number of candidates remaining proposed does not exceed the number required by the Act to be elected, THEN the Clerk, or other returning officer shall declare such remaining candidate or candidates duly elected to such office. This declaration should be made within a reasonable time and as soon as possible after the time for filing resignations has expired, and in such a manner as the Clerk or other returning officer deems to

be most public, usually by posting a statement up on the door of the Town Hall and in his office.

One Set of Ballot-Boxes Sufficient for Voting on By-Law and at Municipal Elections.

32—W. B.—I observe by the December number of THE MUNICIPAL WORLD that voting on by-laws on the 5th. of January 1903 at municipal elections, that you require separate ballots and separate forms different from those used at municipal elections. As the town of L. will vote on a by-law on that date viz the 5th. of January, would you let me know if it is necessary to have two sets of ballot-boxes or if the ballot-boxes used at the municipal election are sufficient to contain municipal ballots and by-law ballots? Municipal ballots are sealed up in the ballot-box. The box is also sealed and cannot be opened for thirty days unless a recount is demanded. I do not see anything in your December number relating to that but thought I would ask the question.

One set of ballot boxes is sufficient when the Municipal elections and a vote on a by-law take place in a municipality on the same day. There is no provision in the Statutes requiring a Municipal Clerk or other returning officer to keep a ballot-box used at Municipal elections and returned to him by a deputy returning officer sealed for 30 days after an election. Sub-section 4 of section 177 of the Municipal Act requires a deputy returning officer to return "the ballot box and the said packets" (that is the packets containing the ballots, etc., which the previous section of the Act directs the deputy returning officer to securely seal after the ballots have been counted) to the Clerk of the municipality, as it is in this sub-section provided. Section 188 directs the Clerk of the municipality to retain for ONE MONTH all ballot papers received by him. The PACKETS containing the ballot papers, etc., must be kept sealed until destroyed, pursuant to the provisions of section 188 (unless they are opened pursuant to the authority of sub-section 6 of section 177, or sub-section 6 of section 189), but there is no legal necessity for keeping the BALLOT-BOXES securely sealed or fastened during all that time.

Assessment of and Collection of Taxes Against Cheese Factory.

33—A. B. C.—Township municipal assessor assessed a cheese factory. He did not let the company know that their property was assessed. This cheese company has been making cheese in said factory for years and it was never assessed before. Can the municipality compel the cheese company to pay the taxes? The value put on said factory by the assessor is about double the cash value of the assessable property of said cheese factory and the company had no chance to appeal against the assessment as they did not know they were assessed. The company is a joint stock one of farmers, ratepayers of said township and part of another township.

The cheese factory is assessable property, and it was the duty of the assessor to assess it. The owners must be assumed to know the law, and that they were proprietors of property liable to assessment and taxation. If the assessor did not serve them with notice, under section 51 of the Assessment Act, they should have examined the assessment roll when it was