

refusal or neglect, as if they had been elected." In this instance there was no member elected, therefore the members of the council for the preceding year should have appointed the necessary number of qualified persons to constitute the new council. We are of the opinion that this section does not empower the old council to elect any of themselves.

2. We are of opinion that the members of the old council had no power to transact any of this business. The extent of their authority was to appoint the necessary number of qualified persons to constitute the new council, in accordance with the provisions of section 218.

3. The members of the old council cannot, under the circumstances, remain in office.

#### School Trustee Can be Township Auditor.

113—J. S.—Can a school trustee and secretary-treasurer act as township auditor?

Yes.

#### Duties of Clerk and Council as to Inspection of Assessment Roll.

114—D. L.—1 Is it part of the clerk's duty to inspect the assessment roll when returned by the assessor before the council accepts the roll and certify to its correctness, the clerk being appointed by salary to do work pertaining to his office?

2—If the council authorizes the clerk to inspect the assessment roll, and if it is not his duty under his contract is the council liable to pay the clerk for his work?

1. All the clerk is required by the statute to do is to receive the roll from the assessor, and immediately file it in his office. He is not required to critically inspect the roll. (See section 56 of The Assessment Act.)

2. If the council requires the clerk to examine the roll and report as to whether it is correct and in proper form or not, and this was not made part of his duty at the time of his engagement, the council should allow him reasonable remuneration for his extra labor.

#### Duties of Reeve, Clerk and Council as to Report on Drainage Scheme.

115—X. X.—The municipality of A has a drainage scheme on foot and its clerk has filed a copy of the engineer's report with the reeve of the municipality of C.

1. What is the duty of the reeve regarding this report?

2. Is it his duty or that of the clerk of the municipality of C to notify the parties referred to in R.S.O. 1897, chap. 226, section 16?

3. Can he keep in his possession, report, plans, maps, etc., or has he to put them in the custody of the clerk?

4. Can the reeve of a municipality appeal on a municipal engineer's award in which the township is a party without being authorized to do so by the council?

1. The reeve should deliver these documents to the clerk of the municipality, to be laid by him before the council at the earliest opportunity.

2. The clerk should perform the duty as section 16 directs.

3. No. See our answer to question number one.

4. No. Sub-section 1 of section 63 of The Municipal Drainage Act (R. S. O., 1897, chapter 226,) provides that "the COUNCIL of any municipality served as provided by section 61 may, within 30 days after such service upon its head, appeal, etc."

#### Duties of Reeve and Council as to Return of Collector's Roll.

116—H. T. R.—1. Can a reeve demand return of collector's roll without consent of the rest of the council or has it to be a majority of the council?

2. Have the bondsmen to be notified, if so, have they to be notified each one separately, and how long?

3. Can the council put a claim in by law for collection of taxes, notifying all parties holding liabilities against the council to present all bills on the 15th December or council will not be responsible for such after that date. Would it be lawful? Could council be held responsible after that date?

1. Sub-section 1 of section 144 of The Assessment Act provides that "in towns, villages and townships every collector shall return his roll to the treasurer on or before the 14th day of December in each year, or on such day in the next year not later than the 1st day of February, as the *council of the municipality* may appoint, etc." And sub-section 1 of section 145 provides that "in case the collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed, as in the last preceding section mentioned, the COUNCIL of the town, village or township may by resolution authorize the collector or some other person in his stead to continue the levy and collection of the unpaid taxes, etc." It will thus be seen that it is the statute and the COUNCIL, and not the reeve personally, who regulate the time when the collector is to return his roll to the treasurer. A demand by the reeve personally, with this object in view, is simply a nullity.

2. No. The boadsmen are responsible for the acts and defaults of the collector so long as the roll remains in his hands.

3. A notice of this kind will not have the effect intended. The only way a municipal corporation can relieve itself of responsibility for its lawful liabilities is to pay them.

#### School Trustee Can be Appointed Medical Health Officer.

117—J. M. C. Dr. C is a public school trustee. Can he be legally appointed as medical health officer in the same municipality by the mayor and aldermen at a stated salary?

Yes.

#### Error in School Levy—By-Law Abolishing Statute Labor.

118—CLERK—1. In 1902 the trustees of a certain school section neglected to notify the clerk to place a trustees' levy for their school on the collector's roll. When sending to the clerk a notice of their levy for 1903, they also requested him to place a certain amount on the roll for 1902. The clerk after assuring himself that the amount was the same as should have been levied in 1902, placed the amount on the collector's roll in a separate column and marking it 1902. I am of the opinion that this case comes under sub-section three of section 71 of the Public Schools Act of 1901, and that the rates for 1902 must be paid. Am I right?

2. In the year 1900 our council, acting under the authority of chapter 223, section 561, 336, R. S. O., 1897, passes a by-law, numbered 10, entirely abolishing statute labor. Now some of the ratepayers think it was not a wise change and would like to get a vote to see which system of road work the majority are in favor of.

If the council decide to give them a vote (1) will it be necessary to pass another by-law repealing number 10 and then take a vote of the people to see whether the new by-law shall become law or not? (2) The ballot reading like this "are you in favor of returning to the old system of statute labor?" "then if the majority vote "yes" the council repeal No. 10.

1. If the trustees failed to require the levy of any school moneys in their section in 1902, and as a consequence had not sufficient funds to pay the expenses of the school for that year they can legally require the levy of the deficiency in addition to the amount required for school purposes in 1903, in the subsequent year (1903). We do not think, however, that it was necessary to enter the 1902 portion of the rate separately on the roll.

2. If the council sees fit to do so, it may submit this question to the electors of the municipality under the authority of sub-section 1a of section 533 of The Consolidated Municipal Act, 1903 (enacted by section 105 of The Municipal Amendment Act, 1903), and if a majority of the electors vote in favor of it the council may repeal by-law No. 10, and provide for the re-introduction of the old system of statute labor.