

3. Is it the intention of the Act of 1898 to abolish wards and polling sub-divisions, and have but one polling place in towns under 5,000 inhabitants?

4. We have here about 500 voters in all. Does the Act mean we are expected to have but one polling place for all the work, and each voter to vote for a candidate but once?

1. Sec. 158 does not apply to a town of not more than 5,000 inhabitants since the Municipal Amendment Act of 1898.

2. No. He can vote for mayor, and give six votes in all for councillors.

3. The Act does not profess to abolish wards, but that is the effect of it so far as the election of the members of the council are concerned.

4. The town should be divided into polling sub-divisions, if not already so divided. See sec. 535, sub-sec. (2) and sec. 536 of the Municipal Act. The division can only be made within the time limited by this section. To prevent a person from voting more than once you will have to swear him, using the same form of oath as in the case of municipalities not divided into wards.

Accident Drover's Horse.—Damages.

454.—J. R. W.—We have just received notice of a horse getting his leg broken and a claim for damages. A drover was driving a bunch of 16 cattle and was either riding in buggy or letting horse follow behind, and in going over a small culvert the horse either broke through at the side of the culvert or there was a hole there and he broke his front leg. Parties had crossed the culvert that day and saw no hole. Are we liable for price of horse, or should we have been notified of condition of culvert? The timbers are sound, but it must have been undermined at side. I think we are liable. Please give your opinion.

Unless it can be proved that the culvert was out of repair at the time of the accident and that the corporation had knowledge of the fact, or that it had been out of repair for such a length of time before the accident that the corporation was negligently ignorant of the defect or want of repair, we do not think that the corporation is liable. If the facts are as you state them there is no liability and we would advise the corporation to resist the claim.

No Bonus By-law.

455.—J. H. M.—As we have parties here who contemplate the building of a factory here, provided that we can submit a by-law to the ratepayers making them a grant of \$150 per annum for ten years, (and same is carried), I would like to know if we can legally submit this by-law to the electors to be voted upon at our municipal elections in January next, and if carried would the council be compelled to grant this by-law, making the company the annual grant of the \$150 for ten years?

I cannot find any authority for preparing this and would like if you would please give me any information you are able to in the matter. Please cite the clauses of the Act governing this.

We do not think that you have the right to pass such a by-law at all. Municipalities at one time had the right to grant bonuses to assist manufacturers, but that power has been taken away.

Clerk's Fees as D. R. O.

456.—COUNCILLOR.—Are municipal township clerks entitled to fees (similar to a provin-

cial election) in the case of having to act as D. R. O. at a municipal election?

Section 206, Cap. 223, R. S. O., 1897, provides: "Subject to the provisions of the last preceding section the reasonable expenses incurred by the county clerk, the clerk of the local municipality, and the other officers and clerks for printing, providing ballot-boxes, ballot-papers, material for marking ballot-papers, balloting compartments, transmission of the packets required by this act to be transmitted, and all reasonable fees and allowances, for services rendered under this act, shall be paid to the county clerk or the clerk of the local municipality by the treasurer of the county, or local municipality (as the case may be,) and shall be distributed by him to the several persons entitled thereto. The remuneration for the services of the clerk in holding elections unless fixed, or included in the yearly salary of the clerk, is a matter of account between the treasurer of the municipality and the clerk. The treasurer is required to pay to the clerk the reasonable expenses incurred and allowances for services rendered.

Townships Not Liable for Magistrates Fees.

457.—E. B. W.—If a magistrate in a corporation issues a warrant for a person in the township and commits them to jail, trial held in the corporation, is the township liable for his fees?

No.

Personal Property no Qualification.

458.—ENQUIRER.—Re qualification of a candidate for a municipal office who is elected by the ratepayers.

How does the assessment on personal property of a merchant, or any person having personal property liable to be assessed for same, count in the amount required to qualify a candidate for office? Does it count the same as the assessment on real property or how?

No. The property must be a legal or equitable freehold, which is an estate of inheritance or for life in real property, or an estate partly freehold and partly leasehold, or partly legal and partly equitable. See section 76 of the Municipal Act.

Correction and Ratification of Survey.

459.—J. S. A.—Complaint made to our township council that sideroad between concession 2 and 3 was only forty feet in width along centre of concession. Lost.

Council notified owners to remove their fences off road allowance. Parties brought on surveyor to run the line, who proceeded to take evidence. An old settler made affidavit to within one foot of the place where he saw a post planted in the centre of this concession, by the surveyor making a survey of the township forty-one years ago; also made the affidavit that he heard the surveyor say at the time the post was planted that there was no jog at the place, and that the surveyor did not plant stakes showing a jog.

Another old settler also made affidavit as to seeing post planted, but did not identify the spot. He also distinctly remembers the surveyor say there was no jog at this point, and that no stakes were planted showing a jog as there was in other parts of the township during the same survey.

Now if the party who made affidavit as to the place where the post was planted is correct, there is really a jog of some fifteen feet in centre of concession.

The surveyor whom the owners brought on to run the line this summer, expressed his doubts

as to whether this affidavit re the place where the post was planted (after the lapse of so many years) would hold, and he advised the owners to agree to a straight line across the concession, which they finally did; and also agreed to have their fences removed by the 15th of November, 1898.

This agreement is now repudiated by one of the parties on the ground that it is illegal. He contends that the surveyor should have planted a post at the place indicated in the affidavit, and should have run the line accordingly. In that case he would ignore the statement in both affidavits about there being no jog.

1. Is the agreement to have a straight line legal if the Council consents to the same?

2. Can any of the parties repudiate the agreement?

3. Under the circumstances would not the Council be justified in proceeding to find the line under Sec. 14, Ch. 181?

4. Can the Council legally pass a by-law ratifying the agreement?

1. If one of the parties repudiates the agreement the consent of the Council would not make it binding.

2. It does not appear to us to be a binding agreement, and therefore it can be repudiated.

3. The Council should not act under section 14 unless it is satisfied that the concession line and sideroad lines have become obliterated, and that the inhabitants are subjected to serious inconvenience, and if the council decide that it is such a case it should take care that every step taken is strictly in accordance with the Surveys Act, otherwise it may have difficulty in recouping itself for expenses which will be incurred.

4. If all the parties will sign an agreement in such form that it can be registered, and it is registered, and the agreement is in proper form, we think that it will be sufficient. The agreement should relate that the original boundaries cannot be found, and that all the parties have agreed to dedicate the lands between the two lines for the purpose of being used as a public highway.

Statute Labor.

460.—T. R.—A and B form road division No. 4 in the township of Rama. A is pathmaster and has three sons over 21 years of age. A has three days' statute labor; B has the same amount. The beat is a low flat that floods every spring, and floating timber comes on to the road. A, being pathmaster, goes every spring, as soon as the road is dry, himself and removes the timber, sometimes two men and a team, other times without team. It does not take more than an hour to do the work and that is all the statute labor A does. He comes after and warns B to do his statute labor, but never comes out, claiming that his own is done. Now this year he warned out B to do his labor, next day, after warning B, claimed three days, (it being the middle of harvest, Aug. 16th.) A did not tell B to take horses or anything. B went out on third day with horses and plough, knowing where work wanted to be done; stayed out eight hours, kept ploughing all the time. A did not come out at any time during the day. A only allowed B one day for what work was done and returned two days against B. A has taken no declaration of office in 15 years, as far as B can find out.

1. Can B be compelled to pay?

2. Is A a lawful pathmaster?

1. If B did three days work, the full amount of his statute labor, he cannot be compelled to do more, and any proceedings to compel him to pay would not be