

2. No.

3. Our reply to question number two renders it unnecessary to answer this.

Refusal to Make Declaration of Qualification.

205—C. F. S.—1. Mr. H. was nominated on the 28th of December as councillor, and elected on the fourth day of January, 1904. At our first council meeting he subscribed the declaration of office, but not the declaration of qualification. Had the clerk a right to dismiss Mr. H. when he would not take the declaration of qualification?

2. If Mr. H. votes on a by-law will it be void?

3. What steps shall I take, as some of our ratepayers say that I had a right to dismiss him at our first meeting?

1. The clerk had no authority to interfere in this matter. If Mr. H. was disqualified, proceedings could have been taken to unseat him pursuant to the provisions of sections 219 and 220 of The Consolidated Municipal Act, 1903, and the question of Mr. H.'s disqualification could thus have been heard and decided by the proper tribunal.

2. No. So long as no proceedings are instituted against him to unseat him, he must be presumed to be qualified to hold his seat at the council board.

3. It is your duty to remain passive, and to, in no way, interfere in the matter.

Duties and Salary of Clerk.

206—W. P.—A clerk's appointment reads that he shall be paid such a yearly salary to do all the work required by statute, and no reserve was made by the council for the Court of Revision by the county judge, or for the returning officer at nomination and election.

1. Has the clerk the right to collect fee as clerk of said court?

2. Has the returning officer appointed, instead of the clerk, the right to collect fee for nomination and election?

3. When an account against a council as clerk of a Court of Revision has been certified by the County Judge holding said court, to whom shall it be presented for payment,—to the council or to the treasurer of the municipality?

The appointment of a clerk provides that he shall be paid a yearly salary as clerk of the council.

4. Has the clerk the right to collect fee as clerk of the Court of Revision held by the County Judge?

5. Has the clerk the right to collect fee as returning officer at nomination?

1. Assuming that the court for the revision of the voters' list for the municipality is referred to, where it is provided by a by-law or contract under which the clerk is appointed that the sum to be paid him by way of salary as clerk is intended impliedly or expressly to include payment for all services to be performed by him under The Voters' Lists Act (R. S. O., 1897, chapter 7,) he is not entitled to receive anything in addition to his salary for his services as clerk of this court. But, if the by-law does not provide as above, he is entitled to be paid the fee mentioned in sub-section 4 of section 28 of the Act.

2. Yes.

3. If the clerk is entitled to be paid this allowance in addition to his salary, it should be paid him by the treasurer of the municipality on the certificate of the Judge, as provided by section 30 of The Voters' Lists Act.

4. Our reply to question number one renders it unnecessary to answer this.

5. This depends on the arrangement entered into between the council and the clerk at the time of his employment. If the council then agreed to pay the clerk an extra allowance for the performance of this service, he can collect it, otherwise he cannot do so, as it is part of his ordinary duties as clerk to preside at and conduct the election in his municipality.

Effect of Delaying Appointment of Assessor and Return of Assessment Roll.

207—R. P.—Having regard to section 295 of The Municipal Act, and sections 55 and 56 of The Assessment Act, what would be the consequence and how would the municipality (an incorporated town) be affected if the council failed to appoint an assessor before the 15th of February, providing that the assessment was completed and roll returned before April 30th, and also if not returned by that date how is the roll affected?

The failure by the council to appoint an assessor or of the assessor to begin to make his roll not later than the 15th day of February in any year, or of the latter to return his roll on or before the 30th April, will not invalidate the assessment. If, for any reason, these duties are not performed by the dates named, they should be completed as soon as possible thereafter. In the case of *Nickle v. Douglas* (Q. B. E. T., 1874,) it was held that the omission of assessors in a city to make and complete the roll until after the first of May, does not avoid the assessment. For a wilful omission to return his roll an assessor is liable to a fine not exceeding \$200 and to imprisonment, as provided in section 251 of the Act. If the delay is not wilful, he is liable to forfeit such sum as the court shall order and adjudge, not exceeding \$100. Councils should, however, insist upon assessors completing their assessments within the time limited by The Assessment Act.

Taxes on Volunteer Grants—Council's Borrowing Powers.

208—W. J. T.—1. What taxes are soldier's claims liable to, and what exempt from?

2. Can a council pass a by-law to borrow a certain sum of money from a bank and then draw this in small amounts for their notes given as each amount is drawn until the full by-law amount is drawn?

1. Section 6 of chapter 6 of The Ontario Statutes, 1901, provides that "lands located under this Act shall be exempt from all settlement duties and provincial and municipal taxes (except for school purposes) for a period of ten years from the date of such location, provided that such lands are held by the original locatee, or his heirs, executors or administrators, but upon the transfer of such land to any other person such exemption shall cease, and such lands shall become subject to any Act or regulations then in force respecting settlement duties and provincial and municipal taxes, in the same manner as if the said lands had been located and sold at the date of the said transfer under the provisions of The Public Lands Act and the regulations made thereunder."

2. Yes, if the by-law for that purpose complies with section 435 of The Consolidated Municipal Act, 1903.

Duties of Councillor as to Making Declaration of Office.

209—X.—On Jan. 4th, four councillors were elected out of seven candidates. One of those elected did not take the oath of office on account of absence from the municipality. He returned about the 12th of February.

1. Can the councillor take his seat after taking the oath?

2. If the elected councillor cannot take his seat can the defeated candidate having the highest number of votes take the seat?

3. Is a new election necessary?

1. Yes, but he may be liable to the fine mentioned in section 319 of The Consolidated Municipal Act, 1903, for not having made the declarations of office and qualification within 20 days after KNOWING of his election.

2. Our reply to question number one renders it unnecessary to answer this.

3. No.

Right of Chairman of Council to Vote—Concurrent Vote of Three Necessary to Carry Resolution.

210—SUBSCRIBER—At the last meeting of our council only three members were present. The reeve and one councillor were