

not actual owners, are not qualified to vote on this by-law. Ratepayers entitled to vote as freeholders under section 353 of the Act, must be, as a matter of fact, freeholders at the time of taking the vote, and rated as such on the last revised assessment roll of the municipality.

2. The ratepayers mentioned in sections 353 and 354 of the Act.

3. If a voter wilfully takes the oath prescribed, knowing that he has not the qualification to vote, he is liable to be prosecuted for perjury, and to be punished for that crime as the statutes provide.

#### Qualification of Voters on Money By-Law.

474—J. McD.—The Village of B. is voting on a by-law on the 25th inst. to bonus a manufacturing industry by way of fixing its assessment for a term of years.

The voters' list for 1904 is not yet printed. The assessment roll for 1904 has been finally revised.

1. Can a ratepayer vote who is on the assessment roll and voters' list of last year, 1903, (the list which will have to be used) as a tenant, but who is now on the assessment roll, 1904, as an owner, he having become a freeholder this year?

2. Can a person vote on said by-law who has sold his property since the last list was made, although he is on the list as a freeholder?

1. The voters' list to be used in voting on a money by-law is one to be specially prepared by the clerk pursuant to section 348 of The Consolidated Municipal Act, 1903, from the then last revised assessment roll of the municipality of persons entitled to vote under sections 353 and 354 of the Act. Under no circumstances should the ordinary municipal voters' list be taken as the basis of the list to be prepared as above. It is stated that the assessment roll for 1904 has been finally revised. This cannot be the case if the assessment was made between the 15th February and 30th April last. Section 3 of the Act provides that "for the purposes of this Act an assessment roll shall be understood to be finally revised, when it has been so revised or confirmed by the Court of Revision for the municipality, or by the Judge of the County Court, in case of an appeal as provided in The Assessment Act, or when the time within which the appeal may be made has elapsed." This time does not expire until the 6th July next. (See sub-section 19 of section 71 and sub-section 2 of section 75 of The Assessment Act.) Assuming that the assessment was made at the time above mentioned, the clerk must use the assessment roll for 1903 as the basis for the preparation of the voters' list under section 348 of The Consolidated Municipal Act, 1903. If this ratepayer is not now a tenant within the meaning of section 354 of the Act, and rated as such on the roll of 1903, he should not be placed on this list.

2. On the above assumption, this ratepayer is not entitled to be placed on the list for the reasons given in our answer to question number one, unless he is at the time of the voting actually a freeholder in the municipality and is rated as such on the assessment roll for 1903.

#### Effect of Trustee Absenting Himself From Meetings of Board.

475—A. T. S.—1. If a trustee is away and cannot attend, and another trustee is appointed in his place until he comes back, then he goes away, can the old trustee act without the section being notified, or can the trustee and the secretary appoint him on again and it be legal?

2. What can the section do if not legal?

1 and 2. These questions are somewhat difficult to understand. Section 104 of The Public Schools Act, 1901, provides that if any trustee absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, he thereby *ipso facto* vacates his seat, and the

remaining trustee or trustees shall declare his seat vacant and forthwith order a new election. The remaining trustee or trustees or their secretary-treasurer have no authority to appoint anyone to act officially in the place of the absent trustee.

#### Compelling Removal of Fence from Road Allowance.

476—P. R. D.—In 1886 the council of this township passed a by-law widening about 20 feet a part of an old forced road which runs through this township. The owner, A., of a small lot refused to move in his fence and the council did not compel him to do so. Some years afterwards a verbal understanding was reached with him by the reeve whereby he consented to move his fence back about one-third of the 20 feet on the understanding that that would be sufficient. A. has now sold the lot to B. without any reserve as to the other two-thirds, and B. wishes to erect a building on it. Will he be safe in doing so?

The council have never had possession of this part nor paid anything for it. Has not their claim lapsed?

Assuming that the by-law of the municipality expropriating this 20 feet of land was in proper form and passed in accordance with the then existing provisions of The Municipal Act, we are of opinion that it is still effectual, and that A. and his successor in title (B.) have not acquired a title to this land as against the municipality. Twenty years possession after the acquisition by the municipality of the land under the by-law would be necessary to bring about this result. We are therefore of opinion that it would be unwise for B. to erect any building on this strip of land. The question of compensation need not be considered, because, if any such existed, it should have been made within one year from the time when the latter part of section 438 of The Municipal Act became law (1891.)

#### Liability for Building Sidewalks on County Roads.

477—W. J.—I notice a couple of articles in the April and May numbers of your paper with reference to the keeping in repair, etc., of sidewalks in unincorporated villages where the county has taken over the roads, and it appears quite clear to me from the articles I have read in your paper that the county is responsible for the maintenance of all sidewalks on the said county roads. We have sidewalks in our village and the road on which they were built were taken over by the county and designated as a county road, but our county council says it is the duty of the township council to keep the sidewalk in repair while they (the county council) will keep the road in repair. I would be pleased to have a personal letter from you on the matter.

Since our replies to the questions to which you refer, our attention has been called by a member of the county council, at whose instance it was passed, to section 9 of chapter 26 of The Ontario Statutes, 1903. This section provides that "a county council shall not be liable for the building, maintenance or repair of sidewalks on any county road or portion thereof." This section is out of place, and should have been inserted in The Consolidated Municipal Act, 1903. Without considering the question as to whether any municipality is liable for damages occasioned by a defective sidewalk in such a case as this, it is clear to us that the township municipality in which such a road is located is not bound to build or keep in repair sidewalks on such a road, nor would it be responsible in damages to any person injured by reason of their unsafe condition, for the reason that the road is vested in the county and the township has no jurisdiction over it.

Mr. N. H. Young has resigned the clerkship of the Village of Blyth, and Mr. A. Elder (the treasurer) has been appointed to fill the vacancy.

\* \* \*

Mr. Edward M. Elliott has been appointed clerk and treasurer of the County of Peterborough, to succeed Mr. R. P. Watt (resigned) and Mr. George Stewart (deceased) respectively.