

Farmers' Sons' Statute Labor.

423.—J. A.—Would you kindly advise me whether farmers' sons assessed jointly are exempt from statute labor? We have quite a number assessed so as to get clear of statute labor.

Farmers' sons assessed jointly with their fathers are "otherwise assessed" within the meaning of section 100 of the Assessment Act, and are not "assessed and rated as such on the Assessment Roll of the municipality" within the meaning of section 106 of the Act, and they are therefore not liable to be charged with statute labor under either of these sections. All the statute labor that can be charged is that chargeable against the land, according to its assessed value and the schedule of statute labor in force in your municipality.

Local Option By-Law.

424.—J. B.—I regret to say, that in question No. 416 the dates were not correctly given. The question is:

The township submitted a Local Option by-law, on the 3rd day of January, 1898, and finally passed it on the 10th day of January, 1898, to come into force the 1st day of May, 1898. Can the council legally submit a by-law to repeal it on the 7th day of January, 1901, to come into force on the 1st day of May.

Sub-section 2 of section 141 of the Liquor License Act, (R. S. O., 1897, chapter 245) provides that, "No by-law passed under the provisions of this section shall be repealed by the council passing the same, until after the expiration of *three years from the day of its coming into force, etc.*" Your by-law did not come into force until the first of May, 1898, so the necessary three years will not expire until the first of May, 1901. Therefore your council cannot repeal this by-law until some time subsequent to the last named date.

Voting for Reeve and Councillor in More Polling Sub-Divisions than One.

425.—J. C.—A ratepayer in a municipality who, having property in two or more polling sub-divisions, and whose name is on the list in each of said polling sub-divisions.

1. Can said ratepayer legally vote in each polling booth where his name appears, for township councillor?

2. Can he vote for reeve in more than one place?

Section 73 of the Municipal Act as amended by section four of the Municipal Amendment Act of 1898, provides that the council of every township shall consist of a reeve, who shall be the head thereof, and four councillors who shall be elected by general vote, and section 159 of the Municipal Act provides that no elector shall vote *more than once* for a reeve in a township or village; nor more than once in each ward for councillors in townships divided into wards, nor at more than one polling-place in the township for reeve or deputy-reeve, or deputy-reeves or councillors in townships not divided into wards and in villages. It therefore follows that an elector can only vote for a reeve once whether a township is divided into wards or not, and only once for a councillor where the township is not

divided into wards, but an elector may vote for councillor in each ward in which he has the necessary property qualification.

2. No.

Councillors' Qualification—By-Law Abolishing Levy of Dog-Tax.

426.—T. J. G.—1. Can a person, assessed as occupant, qualify for the office of councillor in a municipality?

2. I attended a meeting of the township council purposely to oppose a by-law being passed re tax on dogs being abolished. I made known to the reeve and clerk my business there, and the reeve answered that in a few minutes it would be taken up. It was then about 2 p.m. I sat patiently in the town hall, where they were holding the meeting, until 5 p.m. Trusting that they would make known to me of the reading of the by-law. I went up to the reeve and clerk and they told me they had passed the by-law, which must have been done silently. They (the council) have no rules of order for the passing of by-laws. The minutes of the meeting, afterwards read by me, read "by-law passed in the usual way." It also read "upon the petition of Mr. —, and over one hundred others." There were not one hundred names in all to the three petitions presented, and one of the gentlemen whose name appeared on one of the petitions, says he never signed it, nor allowed his name to be signed thereto. Does a petition require the *bona fide* signature of the applicant?

3. Can a by-law be passed setting aside an Act of parliament by our councillors and a reeve, and all this done in secret and silence?

4. Is their by-law of any use? Is it not illegal?

1. To qualify as a councillor, a person must have (or his wife must have) at the time of the election as, *owner or tenant*, a legal or equitable freehold or leasehold, or an estate partly freehold and partly leasehold, or partly legal and partly equitable, which is rated in his own name or the name of his wife, on the last revised Assessment Roll of the municipality, to at least the value (in townships) of freehold, \$400, or leasehold, \$800, over and above all liens, charges and encumbrances, affecting the same, etc. See section 76 of the Municipal Act.

2 and 3. Section 2 of chapter 271, R. S. O., 1897, provides that, "upon the petition of *twenty-five* ratepayers, the council of any city, town, township or incorporated village, may provide by by-law, that the said tax (that is dog-tax) or any part of it shall not be levied in said municipality." Consequently if the number of petitioners to the council to pass the by-law was twenty-five or over, they had in their discretion the right to pass the by-law. If the by-law is in proper form, (as to which we cannot give an opinion, not having seen it,) and regularly passed by a majority of the council, it is a valid by-law.

The council may not have treated you with proper courtesy, but their conduct as stated by you, will not invalidate the by-law. This by-law does not over-ride an Act of parliament, as the legislature has given councils express authority to pass such a by-law, on the presentation of the necessary petition. The signatures of the petition should be genuine, or authorized by the persons purporting to sign the same, but so long as there are

twenty-five or more genuine signatures of ratepayers on the petition, the council would be justified in acting on it.

Collection of Taxes on Stock in Store.

427.—H. J. T.—When our assessor went his rounds this year he assessed a small portion of land in our township to A, a storekeeper, as tenant, with no valuation on real property, but \$600, for personal property (stock in store). After the assessment roll was revised and adopted A sold his entire stock to B who is carrying on business in the same place, A having moved out of the county in which he was assessed as above. Who is liable for the taxes? B is not on our assessment roll.

A is the person liable for the taxes. Since he is the person assessed, and seizure can be made of any of his goods and chattels wherever found within the county in which the local municipality lies, for judicial purposes to realize the amount. See clause 1 of sub-section 1 of section 135a of the Assessment Act. After all the other remedies for the collection of these taxes have been tried, and proved a failure, they may be recovered with interest and costs, as a debt owed to the local municipality from A. See section 142 of the Act.

By-Law Forming New School Section.

428.—J. J.—In the fall of 1898 a by-law was passed by the township council cutting off portions of two school sections to form a third section, the by-law going into force on the 1st of January, 1899. But the trustees of the new section have put in no levy since the formation of the section.

1. Has the council authority, at the coming December meeting, to pass a by-law dissolving the new section and annexing the same in the proportion they may deem expedient to adjoining sections, the by-law to go into effect January 1st, 1901?

2. Has sub-section 3, of section 38, of the Public School Act, any bearing on this particular case?

3. How must this proposed by-law be published?

4. If any ratepayer in this new section about to be dissolved, is over three miles in a direct line from any school-house of the adjoining section, can he be placed in any section? The said ratepayer belonged to one of the adjoining sections before the formation of the new section.

5. If a portion of the trustee's levy for any year is returned as uncollectable by the collector can the council reimpose this uncollectable amount on the section in the following year?

6. Can you explain why the amount due for statute labor by non-resident defaulters must be charged on the collector's roll for the same year, while the amount due from resident defaulters must not be collected until the following year, though the statute labor lists are returnable before the collector's roll is made out.

1. The by-law passed in the fall of 1898 was evidently one intended to unite portions of existing school sections with a new section, and could not be passed after the 1st day of June in any year. See sub-sec. 3 of sec. 38 of the Public Schools Act. Since the provisions of this sub-section were not complied with, the by-law is invalid. A by-law passed by your council now purporting to dissolve the new section intended to have been created by the by-law of 1898, would be simply a nullity, as no new section was formed by that by-law. If the by-law of 1898 were a valid by-law, it could not be repealed or