

### County Clerk May be Assessor of Local Municipality—Candidate Should Not be Deputy Returning Officer.

166—E. D. B.—1. Can a county clerk legally act as assessor in a municipality forming part of the county of which he is clerk?

2.—Could a person legally act as deputy-returning officer and be a candidate for office of councillor or public school trustee providing he was not a candidate in the ward in which he would act as deputy returning officer?

1. There is no provision that disqualifies a clerk of a county from holding the office of assessor of any municipality in the county.

2. No. Although the deputy is not a candidate for office in the ward in which he is acting as a deputy-returning officer, he must be presumed to be interested in the composition of the body of which he expects to be elected a member. In Reg. ex rel. Corbett v. Jull, 5 P. R. 48, it was judicially remarked that "these officers should not be partisans. It is the duty of such an officer to stand indifferent between the contending parties; to have no interests to serve for EITHER, or for himself; to approach his duty with the simple desire to do strict justice, etc."

### Equalization of Union School Assessment in Unorganized Territory.

167—T. S.—In a union school section consisting of a town in the District of N. and parts of an unorganized township in A., who are the proper parties to assess the persons in the unorganized township?

The Public Schools Act, 1901, makes no provision for a case of this kind. Section 54 of the Act requires the assessors of the several municipalities interested to equalize the assessment of the union school sections in the municipalities once in every five years. An unorganized township has no assessor, and the Act does not provide that any other person or official should take his place in performing this duty.

### Payment for Polling Booths at Referendum Vote—Vacating Seat in Council.

168—W. B.—At the referendum vote taken here two years ago the polling booths for that election have not been paid for by the town of L.

1. Who has a right to pay them, the corporation or the Government?

At the municipal election held on January 4th, 1904, at the town of L., there is one councillor who was elected but he has never as yet taken his seat. He put in his resignation to the council shortly after he was elected, resigning his seat, but did not put in a disclaimer. The council then made the motion not to accept his resignation which was carried.

2. When is the seat vacant and what steps should be taken legally for a new election to fill his place?

1. The charges for the rent of polling booths in a town (other than the public or town hall) used on the occasion of the taking of the Referendum vote on the 4th December, 1902, must be paid by the treasurer of the town on the order of the deputy-returning officer. Section 92 of The Liquor Act, 1902, (chapter 33, Ontario Statutes, 1902), provides that "the fees in Schedule B to this Act mentioned, in respect of the several matters therein contained, shall be allowed to the several officers therein mentioned respectively for the services and disbursements in the said schedule specified." Item No. 11 of the Schedule is as follows: "For each polling booth, actual cost not exceeding four dollars to be paid by the city, town, village or township treasurer (as the case may be) on the order of the deputy-returning officer, unless the municipal council provides suitable polling places at their own expense."

2. Strictly speaking, a "resignation" implies that the person resigning has been elected to the office he resigns, and *has accepted the office*. This councillor has apparently never accepted the office to which he was

elected, and therefore cannot resign it. If he absents himself from the meetings of the council for three successive months without being authorized so to do by a resolution of the council entered on the minutes, his seat in the council shall thereby become vacant, and the council shall forthwith declare the seat vacant and order a new election. (See section 207 of The Consolidated Municipal Act, 1903). Section 219 of The Municipal Act renders a councillor liable to a fine, not exceeding \$80, for refusing to accept office.

### Printing Contract with Council a Cause for Disqualification.

169—B. Mc.—Is there an amendment to the Municipal Act in reference to a newspaper publisher who is a member of a town council whereby he can legally do printing and advertising or make a contract for the same?

No, but see 62 Vic. Chap. 11, Sec. 22.

### Basis of Grant to Union Schools.

170—T. W. T.—Where there is a union school between two townships should the council, when making their annual township grant to schools, which is done in the month of March, make grant to union school based on the equalization which is in force at the time, or should it be based on the new equalization which is not made until the month of June of the same year?

It is not clear to us what is meant by "the annual township grant to schools," whether it is the sum annually required by the trustees under the authority of sub-section 9 of section 65 of The Public Schools Act, 1901, or the general school levy authorized by section 70 of the Act. If the former, the estimate is to be submitted to the council before the 1st of August, or at such time as may be required by the council, and, if the latter, the levy should be made when providing for the levy of the general township rate. If the facts are such that the council can legally make the grant in March (as to which we cannot say) the basis for the apportionment of the grant between the different parts of the union school section should be the equalization in force at the time the apportionment is made. It could not be based on an equalization as to which the council has no information, and which has not been made.

### Time for Sale of Lands for Taxes.

171—A CLERK.—At the end of three years no land sale was made for arrears of taxes, and at the end of the three years and each year thereafter no by-law was passed to prohibit a land sale. What action should the council take at the end of six years?

The fact that the treasurer has not performed his duty as to selling lands for arrears of taxes imposed on him by section 173 of The Assessment Act, within the time prescribed by that section, will not render a subsequent sale of the lands invalid, and this would be so, whether the council had passed a by-law pursuant to section 174 of the Act or not. The treasurer should proceed to sell the lands to realize the amount of the arrears of taxes in the manner prescribed, and if he neglects or refuses to take the necessary proceedings with this end in view, he can be compelled by mandamus to do so.

### Payment of Less Than Two-Thirds of Damages for Sheep Killed

172—R. W.—In our municipality we appoint sheep valuers and have been paying two-thirds of the valuation of sheep worried. The last few years the dog tax has not been sufficient to pay the damages supposed to have been done by dogs. The council wishes to pay only one-half the value. Will it require a by-law or can the change be made by resolution of the council. There is no by-law of the township that I can find stating the amount to be paid?

If there is nothing to the credit of the fund created by the collection of the tax on dogs, pursuant to the provisions of chapter 271, R. S. O., 1897, the council of the municipality is not bound to pay any damages for sheep killed or injured by dogs. If there is any balance to the credit of this fund at the time an application for damages