

By section 53 of chapter 225 (R. S. O. 1897), section 177 of the Assessment Act is made to apply to municipalities in districts selling lands for taxes. The latter section requires that these sales be advertised in the *Ontario Gazette*, as well as the local papers. The only change which has been made in the provisions of this section since the revision of the statutes in 1897 was one in 1898, which applies to cities only.

#### Alteration of Boundaries of School Sections.

**236**—A. K. D.—Can a council change school sections before the expiration of five years from the time the school sections were laid out? If so, what steps have to be taken? Should the ratepayers get notice that such a change is to be made, or would it require a vote of the ratepayers? If so, would it take two-thirds of the vote to carry?

As I am one of the council and do not know much, I want to know something about changing school sections before I vote on it. I will try and state as near as I can how this change is wanted. The council of 1901 laid out the municipality into school sections as required by law so that every ratepayer was in a school section, but this did not please all the ratepayers, and now they want the sections changed again. It is claimed by some of the people that what the council of 1901 passed was not legal, as the reeve was a license commissioner at the time of his election. I do not know, but I think the reeve was legal, as there were no steps taken to disqualify him. If the reeve was not qualified and the sections changed now, it would be the same as it is now, as there are two of our council for this year school trustees. If our law makers keep on making new laws in regard to councilmen, the municipalities will have to get a safe to keep their councilmen in.

There is no statutory provision rendering it necessary that school sections formed by the township council under the authority of section 12 of the Public Schools Act, 1901 (as we assume these were), should remain as originally laid out for at least five years after the passing of the by-law, giving effect to the sub-division of the township into school sections. The boundaries of any of these sections may, at any time after the township has been sub-divided into school sections, be altered by by-law of the council passed pursuant to section 41 of the Act. Before this by-law is passed, the notices mentioned in subsection 2 must be given, and it must be passed not later than the 1st day of June in any year, and shall remain in force for a period of five years. (See subsection 3.) The fact that the reeve last year was disqualified from membership in the township council, does not render ANY of the business transacted by that council illegal.

#### Treasurer's Bonds—Compensation for Damages Caused by Drainage Works—Drainage Referee Paid by Salary.

**237**—C. W. D.—1. Has the township treasurer to furnish new bonds each year if he has the same bondsmen as he had the year previous, and is it necessary for the new council to receive and accept the bonds of the treasurer, although there is no change in the bondsmen?

2. There is a municipal drain going through a farm lot, and the owner of the lot thinks the contractor of the drain has put the earth that

came out of the drain over his land so as to injure the land and crops alongside of the drain. What is the proper course for this party to take to get relief?

3. Does the provincial referee get pay for work on drains along with the salary attached to the office? If so, what amount?

1. Before we can definitely answer this question, we should know whether this treasurer is appointed for an indefinite period, or for one year certain, and whether the liability of the sureties is, by the bond, limited to any particular time or extends indefinitely over the whole period for which a treasurer was appointed. In the Township of Adjala vs. McElroy, (9 O. R., 480), it was held that, where a treasurer was re-appointed annually for several years, the re-appointments were not equivalent to removals and re-appointments, but were rather a retention in office of the same treasurer and that his sureties were not discharged in consequence thereof, and the latter part of section 285 of the Municipal Act makes it the duty of every council in each and every year, to inquire into the sufficiency of the security given by the treasurer and to report thereon.

2. If this person thinks himself entitled to damages or compensation by reason of the construction of this drain through his premises, he should take proceedings to enforce his claim before the drainage referee pursuant to the provisions of section 93 of chapter 226, R. S. O., 1897, (as enacted by section 4 of chapter 30 of the Ontario Statutes, 1901). The claim for compensation should be made within one year. See section 438 of the Municipal Act.

3. No. The referee is paid a salary and reasonable travelling expenses. (See sub-section 6 of section 88 and section 108 of the Municipal Drainage Act. (R. S. O. 1897, chapter 226.)

#### Qualification of Voters on By-Law to Raise Money to Build Town Hall.

**238**—J. C. G.—Kindly let me know who can vote on a twenty year by-law to build town hall, and what proportion or majority it requires to carry the same?

We assume that the by-law referred to is one to provide for the issue of debentures to raise the money required to build the town hall, payable in twenty years. If this is so, the persons qualified to vote on the by-law are those mentioned in sections 353 and 354 of the Municipal Act. Since this by-law is not to be passed for any of the purposes mentioned in section 366 or 366a (enacted by section 8 of the Municipal Amendment Act, 1900,) of the Municipal Act, a majority of the electors voting on the by-law is all that is necessary to carry it. (See section 264 of the Act).

#### Councils Liability When Contract Executed.

**239**—X. Y. Z.—In 1902 A, B and C a partnership enter into contract with municipal corporation to the extent of \$4000.00. The contract was completed in 1902, the partners having assigned the collection of the same to the bank for advances made them. The corporation paid to the bank in 1902, \$3500 on account of the contract, leaving a balance due

of \$500. At the municipal elections of 1903, A is elected to the mayoralty of said corporation by acclamation. Subsequently, the account for the balance due A, B and C of \$500, together with interest is presented by the bank for payment, which is refused by the council on the ground that the account is void.

1. State the authority of the council for this refusal?

2. And the procedure of A, B and C to collect their account of \$500 with interest?

1. As we understand this case neither A nor any of his partners was a member of the council when the contract was entered into. The work was completed in 1902. The council paid \$3500 on account leaving a balance of \$500 unpaid and the bank to which this balance was assigned asks the council to pay it. The contract appears to have been executed and as it was not made in violation of any law we do not see how the council can refuse to pay the balance due. It is said that the council claims that the contract is void but the ground upon which it is claimed to be void is not stated. The fact that A is now a member of the council cannot prejudice the bank so as to render void a contract which appears to have been valid and enforceable at the time A was elected. (See *Brown v. Town of Lindsay*, 35 U. C. R. 509.)

2. The claim against the Municipality under this contract having been assigned to the bank, the bank is the party entitled to enforce payment, and it can enforce payment by action in the proper courts.

#### Hotel Keepers Qualification—Separate School Supporters Should Support Nearest Separate School.

**240**—P. F. S.—1. One of our councillors has purchased a hotel. I suppose he cannot hold out his term and cannot take license in his father's name? Will have to have nomination if he resigns.

2. According to section 44 chapter 294, Separate Schools Act, a Catholic can leave a separate school and join another separate school. We have two separate schools, only about three miles apart, and about three or four families who live in between them want to come to our village school. Can they do this by instructing the assessor to place them in separate school column for our school and quit the school they have been belonging to for years, and must the assessor place them in column they want him to?

1. The purchase of a hotel does not disqualify a person from being elected a councillor, nor does the fact that he is a hotelkeeper, unless he is the holder of a license to sell liquor. If his father procures a license to sell liquors, the son may sell his father's liquors, acting for him without violating any law and without voiding his seat in the council. If on the other hand he sells his own liquor he is then a person selling liquor without a license and renders himself liable to the penalties imposed by the Liquor Act, but his violations of that Act will not disqualify him. (See *Reg. ex. rel. Clancy vs. Conway*, 46 U. C., Q. B. 85.)

2. We cannot see that the section you quote gives the supporters of separate schools any such power as you mention. It simply provides that where the resi-