

A person nominated can legally resign his candidature for the office for which he has been nominated WITHOUT the consent of his proposer and seconder. If he resigns *at the nomination meeting*, his resignation need not be in writing, but if he files it after the nomination meeting is over, it must be in writing and signed by him in the presence of a witness. (See sub-section 2 of section 129 of the Municipal Act.)

Auditor for 1902 Qualified as Councillor for 1903.

12.—RATEPAYER.—Will you kindly inform me if an auditor, who was appointed in January 1902, and does not resign can legally qualify as councillor for 1902?

An auditor of a municipality for the year preceding nomination day is not mentioned as one of the officials of a municipality, disqualified for membership in the council of the municipality in the year following his appointment, by section 80 or elsewhere in the Municipal Act. Your municipality being a township, the auditor's duties are performed when he audits the books of the township for the year preceding his appointment. If the auditor has been paid his salary there are no reciprocal obligations thereafter existing between the auditor and the municipality. We are of opinion that no objection can be successfully raised to the qualification of a proposed candidate on this account.

Public School Trustee not Qualified as County Councillor.

13.—J. S.—I notice by answer to question 509 in last issue of the WORLD that a public school trustee must resign if he is a candidate for the municipal council. Does this apply to a candidate for the county council? I am a candidate for re-election to our county council and am also a rural school trustee and would like to know what I should do in the matter.

Reading the amendment provided for by section 5 of chapter 29, of the Ontario Statutes, 1902, into sub-section 1 of section 80 of the Municipal Act, the latter would provide that "no member of a School Board for which rates are levied" shall be qualified to be a member of the Council of ANY municipal corporation. A rural School Trustee is a member of a School Board for which rates are levied, and a County Council is a Council of a municipal corporation. Therefore, we are of opinion that this person will be disqualified for membership in the County Council, unless he resigns his office of rural School Trustee and has his resignation accepted by his colleagues on the Board prior to nomination day (22nd December inst.)

Legislation Authorizing the Laying of a Pipe Line.

14.—J. Y. C.—The council of this township has granted to the Pipe Line Company a free franchise for laying pipe on the side of the road (on top of the ground) for the purpose of conveying oil from the oil wells to the railway station. If the council had not granted the franchise and would not, would the Dominion or Provincial Government have power to compel the granting of same?

We do not see what the Dominion Government would have to do with a matter of this kind, but the Provincial Government could enact legislation granting this power or privilege, if it saw fit to do so.

Claim for Compensation for Land Expropriated Must be Enforced Within a Year.

15.—E. R. S.—1. Does the lapse of eight or ten years outlaw any claim upon the township council for lands taken by them for road purposes and for which I have received no recompense?

2. Would it be best to sue the reeve personally, as it is through his maladministration that I have not been paid?

1. Yes. Section 438 of the Municipal Act, as amended by section 27 of the Municipal Amendment Act, 1899 (chapter 26 of the Ontario Statutes, 1899), requires a claim of this nature to be made within one year from the date when the land "was entered upon, taken, or used."

2. You have now no remedy against the Reeve or any other individual, or the Council. If the Council for any reason whatever refused to compensate you when asked to do so within the year, you should have taken proceedings to compel them to do so, within the year, or within one year from the date of the passing of section 27 of chapter 26, of the Ontario Statutes, 1899.

Powers of Council to do Business After December 15th.
—Qualification of Member of School Board.

16.—SUBSCRIBER.—1. Can a council legally pass and pay accounts between December 15th. and December 31st. in any year, or does the Act mean there is no power after December 15th.?

2. Can a man sit as a member of the school board and a member of the municipal council at the same time?

1. A municipal council can legally pass and pay necessary accounts up to and including the 31st day of December, but not afterwards. Section 328 of the Municipal Act provides as follows: "No council of any local municipality shall, after the 31st day of December in the year for which its members were elected, pass any by-law or resolution for the payment of money, or which involves directly or indirectly the payment of money, nor shall they enter into any contract or obligation on the part of the municipality, nor shall they appoint to or dismiss from office any officer under the control of the council, or do any other corporate Act after said day, except in case of *extreme urgency*, but the council may, before the 31st day of December, do any necessary business which, having regard to the circumstances, may be done at such time, and which they are authorized to do at their last meeting."

2. Sub-section 1 of section 80 of the Municipal Act as amended by section 5 of chapter 29 of the Ontario Statutes 1902, provides that "no member of a school board for which rates are levied shall be qualified to be a member of the council of any municipal corporation."

Amending Drainage By-Law.

17.—J. E. H. Can a council amend a drainage by-law to collect more for expenses than ten per cent of cost which engineer allowed in original by-law? If not, where will it come from? The expenses will overrun the amount allowed.

If the necessary and legitimate expenses of and incidental to the passing of a drainage by law exceed the amount of the Engineer's estimate for the purpose, the Council is empowered by section 66 of the Municipal Drainage Act (chapter 226 R. S. O., 1897) to amend the original by-law from time to time to provide for the levy and collection of the additional sum or sums required.

Enforcing Payment of Fees of Non-Resident Pupils.

18.—J. H. M.—For the last few years a settler out of an adjoining municipality and school section has been sending his children to our school and we have asked the trustee board of his section to pay us so much a year out of this man's taxes for his children coming to our school, but they have refused to do so. The School Act says the trustees may pay out of the taxes to the section to which the children go. Please let us know if his "may" in said section is compulsory and how can we get any remuneration for said pupils attending our school?

We do not find the law as to this matter, as you state it. Section 95 of the Public Schools Act, 1901, contains the law applicable to this case. Sub-section 2 provides that "the parents or guardians of the non-resident children shall pay to the Trustees of the school to which their children have been admitted such fees annually as may be agreed upon," etc. If no mutual agreement can be arrived at, the Trustees of the school which the non-resident pupils attend should refuse to admit them until a settlement is made with the parents or guardians as to the fees they are to pay. Sub-section 5 makes provision for the remission to the parents or guardians of such children of as much of the taxes chargeable upon them for school purposes as would be at least equal to the fees paid to the neighboring section for the non-resident pupils. Under the latter part of sub-section 3, it is not compulsory upon the Trustees to remit the fees paid by parents who send their children to a neighboring school, but under sub-section 5 they are bound to remit the fees.

Preparation of Voter's List for Election of School Trustees.—Clerk's Remuneration.

19. A. E. N.—I am requested by public school trustees of school section No. — to prepare list of voters of all persons entitled to vote at the annual election of trustees. I desire to know:

1. What persons are entitled to vote at said school meeting for election of trustees?
2. Are tenants paying rent entitled to vote at said meeting?
3. Are farmer's sons entitled to vote?
4. Is any remuneration fixed by statute for township clerk in preparing such voters list?

1. Section 13 of the Public Schools Act, 1901, provides that "every ratepayer of the full age of twenty-one years, who is