

## Exemption—Tenant Liable for Taxes.

19.—J. B. M.—Will you kindly answer the following questions in your journal? Does the final instructions to the tax collector from the town council, "Instructed by Council not to collect,"

1. Exempt the said premises from future liability of taxes for that year?

2. Suppose a tenant, who occupies the premises and gets the benefit of said instructions, moves off the property, is the owner of said land liable for said taxes?

1. If the taxes are legal and properly entered on the roll, the council has no authority to interfere with its collector's duty to promptly collect all taxes on his roll. It is only in cases where the taxes have been illegally imposed that the council has the right to instruct its collector not collect such levies.

2. If the collector, acting under instructions from the council or otherwise, neglects to make the taxes in such a case as you mention, the right to recover the taxes from the landlord personally or out of the land will be lost.

## Road Improvement By-Law is Valid.

20.—A. M.—I enclose By-Law No. 122, Markdale, to raise \$1,500 for road improvements. The intention is, as you will notice by the schedule and the recital, to issue twenty debentures each for \$110.37, but it has been objected to on the ground that the words "and the interest coupons attached thereto," in paragraph three compel us to issue debentures for less than \$100 with coupons attached for the interest and therefore the debentures are illegal.

On the other hand we are advised that the words "and the interest coupons attached thereto" were inserted inadvertently and are mere surplusage, and that section one read in connection with the schedule shows clearly that the amount of the debenture is \$110.37 and further that any provision in the by-law inconsistent therewith has been cured by registration, and we are referred to section 436 of the Municipal Act, showing that the debentures being each for \$110.37 would be valid on their face and would be validated under sections 396 and 369 and that the objection of this by-law does not come within the provision of sub-section 6 of section 399. This is a case where lawyers differ, and would be glad to have your view in order to decide the matter. The by-law was registered Sept. 12th last.

We are of the opinion that the by-law and the debentures issued thereunder are perfectly valid.

## Voting in Farm Land Separated From Town.

21.—M. J. C.—I have just received notice of Proclamation for separation of farm portion of town and its attachment to adjoining township, to take effect January 1st, 1900.

Do you consider they can take part in town or township election this year. For proclamation see Ont. Gaz., 9, 12, 99.

Section 17 of the Municipal Act provides for the separation of farm lands from cities, town and villages. Section 96 of the same act provides the manner in which the first elections are to be conducted, where corporations are newly erected or extended, but the latter section does not cover a case of this kind, nor can we find any provision in the Municipal Act which does cover it. The result, therefore is that the voters in the detached part cannot vote at all this year if objection is taken. They cannot vote in

the town if objected to because they cannot take the oath provided, nor can they vote in the township because their names are not on the township lists.

## Vote on By-law.

22. G. G. A.—I have your letter of the 24th inst., in answer to my question as to section 355 and 366 of the Municipal Act, but your letter does not seem to remove the difficulty. It seems to me on reading section 366, that two conditions must be fulfilled in order to carry the by-law, namely, first, one-third of the individual persons named in the Assessment Roll, as qualified or entitled under the act, must express their assent to the by-law; and second, a majority of the actual number of persons voting must assent to the by-law. Then,

1. How is the clerk to ascertain the actual number of persons (irrespective of the number of votes) expressing their assent to the by-law, in view of the fact that a voter or ratepayer may vote two or three times in this town under section 355, and

2. How is the clerk to ascertain whether one-third of such individual voters are in favor of the by-law?

1 and 2. As we have already stated the clerk must ascertain from the voters' list and assessment roll the number of persons entitled to vote without regard to the number of votes which any particular person has. The greatest difficulty is in ascertaining whether a majority of the persons so entitled to vote have voted for the by-law. The clerk is required to ascertain this from the statements furnished by the various deputy-returning officers. See section 362 and 364 and from these statements he can only certify as to the number of votes cast which may not be the same as the number of persons who have actually voted. We are glad that you have drawn our attention to the difficulty arising under these two sections. We shall direct the attention of the Attorney-General to the matter.

## Compensation for Cattle Killed by Dogs.

23.—T. G. R.—Can you advise me if under the Municipal Act a township council have power to pay for cattle killed by dogs. One of the ratepayers of this township has had six cattle killed by dogs while running in pasture.

We collect dog tax and have a surplus on hand over amount paid for sheep and the council are desirous of knowing whether under the law they would be justified in compensating this ratepayer for the loss of his cattle.

No. You cannot apply either the surplus dog fund or any other fund of the municipality for that purpose.

## Resignation of Candidates Nominated.

24.—Clerk of Adelaide.—You state in your last issue on page 192, resignations may be handed to the Returning Officer at nomination meeting or on the following day at any time before 9 o'clock p. m. Why not 12 o'clock p. m.? Why 9 o'clock p. m.?

Please tell me if it is illegal to receive a resignation after 9 o'clock on the day after the nomination.

You cannot legally receive a resignation after 9 o'clock p. m. on the day after nomination day. See section 129 of the Municipal Act sub-section 2 and section 10 of the Municipal Amendment Act, 1899.

## Election.

25.—J. M.—A nomination meeting for reeve and councillor was held from 12 to 1 o'clock. Two Reeves and eight councillors were nominated, two of the men nominated for councillors were not present. To save election expenses it was decided unanimously for one man to choose out a reeve and four councillors from the number and elect them by acclamation, which was done. Is it done legally, or can they put us in trouble? One of the parties who proposed a councillor was absent from the hall at the time, also one of the men nominated was absent. Let us have your reply at once and send account of charge.

It is not necessary that the persons nominated should be present at the nomination meeting; if so, the two absent nominees were legally placed in nomination and unless they filed their resignations as required by sub-section 2 of section 129 of the Municipal Act as amended by section 10 of the Assessment Amendment Act, 1899, a poll should be held. The reeve and councillors could not be elected in the way you mention, this proceeding being irregular and illegal.

## Municipal Grant to Agricultural Society

26.—J. C. M.—1. Can council grant \$150 bonus to an agricultural society to build a hall without a vote of the people under a by-law?

2. If a vote of electors at election on January gives a majority to grant a certain sum to such society, can council give it without a by-law?

3. If a by-law is required, how many petitioners are required to sign petition for council to pass by-law?

1. Yes. See section 591 of the Municipal Act sub-section 1 and section 45 of chapter 43, R. S. O., 1897.

2. It is not necessary to submit such a by-law to the vote of the electors if the money is payable out of the current year rates.

3. The council may pass a by-law of its own motion without any petition.

## Assessment Stock of Corporation—Sale of Estate Tail for Taxes.

27.—J. B.—For mutual benefit under short chapter re Company Corporate Society, consolidated statutes of Ontario, with rules and regulations registered short form fee \$1.00 under name Empire Store Co. Limited.

1. Can the stock be taxed as members hold share certificates for amounts equal to amount of stock?

2. Can the share stock held by members be taxed under section that reads all monies, etc.?

Forty years ago the fee tail interest of owner was sold for debt by order of court; the last owner failed to pay taxes. The land 266 acres being sold for arrears, eight years ago by county, deed given, signed by warden and treasurer which is registered.

3. Can next heir under entail claim and take said land?

4. If so, what steps must be taken?

5. Having built on and improved said land, can I come back on county or township, or will the heir have to pay for improvements and all costs?

1 and 2. Sec. 39, sub-sec. 1 of the Assessment Act provides that the personal property of an incorporated company, other than the companies mentioned in sub-sec. 2 of said section, shall be assessed against the company in the same manner as if the company were an incorporated company or partnership, as to how and where the personal property of a partnership should be assessed, see sec. 49 of that act.