

Police Magistrate to Dismiss—Jurisdiction of J. P's.

43.—CLERK.—The County Council some years ago recommended a Barrister for Police Magistrate. The Government appointed him, the County Council paying him \$950 per year.

1. Have they a right to dismiss him or not, and if so, where will I find it?

2. Where there is a County Police Magistrate, can Justices of the Peace try and decide cases without consulting Police Magistrate?

1. No.

2. No.

Reeve ex Officio J. P.—Statutes to Clerk Only.

44.—J. S. A.—I. Is the Reeve ex-officio a Justice of the Peace for the County or for the township only?

2. Is he entitled to the Ontario Statutes free of charge, and if so, from whom should he obtain them?

1. For the whole County.

A British Subject.

45.—J. H.—Is a man whose parents are now, and always have been citizens of the Dominion, although he happened to be born while they were in the United States, eligible for the Municipal Council, he having the necessary property qualification?

Yes. He is eligible. In the Lincoln Election Trial, in 1876, a voter was called and proved that he was born in New York, but that his parents were British subjects, and Mr. Justice Parterson held his vote good. We have looked at the Naturalizing Act, and there is nothing in it to make the Councillor in this case an alien.

Owners to Pay for Road Lines.

46.—J. C. B.—Six or eight ratepayers, owners of land adjoining a concession road allowance make application to the township council to have the P. L. Surveyor, to run the lines. The council does not want to locate the road, nor do they ever expect it will be required for a public highway as the land is very low and wet.

1. Who has a right to employ the surveyor?

2. Can the council be compelled to be a party to the running of the lines, when they do not want to have anything to do about it?

1 and 2. The council cannot be compelled to take any action whatever for the purpose desired by the ratepayers. If they want to have the road located they must employ a surveyor, and bear the expense themselves.

Crop on Road Allowance to be Opened.

47.—H. J. L.—A and B live opposite each other with an unopened concession between them, each supposed to have one half of the road allowance enclosed. B has his share of the road allowance and the rest of the field sown with fall wheat. A has applied to the council to have the road opened for public use forthwith. B expresses his willingness to open the road as soon as he takes off his crop. A will not consent to this and threatens legal proceedings.

Can B be compelled to remove his fence before taking off his crop?

A claims that he gave B verbal notice not to sow the road allowance.

Yes. If B is legally possessed of the road within the meaning of section 552, Consolidated Municipal Act, 1892, a By-law should be passed, notice in writing being given as provided by section 553 of the same Act.

Collector or Assessor.

48.—CLERK, ALGOMA.—The council for 1896 appointed a Collector for the year, the time stated for him to complete his duties was February 1st,

1897. The council for 1897 extended the time until the 1st May, 1897, for him to complete his duties, and at the same meeting appointed same Collector to be Assessor for the year 1897, his duties to be the same as Assessors for other parts of Ontario, viz: to commence his duties February 15 and to return his roll on or before April 30th.

Can the Collector for 1896, he not having completed his duties, be legally appointed Assessor for the year 1897.

N. B.—I do not think that the Collector intends to return the roll to the Treasurer until near the time given by the council viz., May 1st.

No. We refer you to the declaration required to be made by the Assessor under section 271 of the Consolidated Municipal Act, 1892.

Tenant Railway Property—Voters' List.

49.—P. R.—A party working for a railway company, and living in a house owned by the said company gets assessed as a tenant, without being rated for any sum whatever, claims that his name should be placed on the Voters' List, and that he has a right to vote at Municipal Elections. Please give your opinion as to his rights in the matter.

He is entitled to be on the list.

Change in Council—Auditors—Committees etc.

50.—S. H.—Our Town Council formed committees last Monday. Since, upon a recount of votes another Mayor has been elected. Now, as the committees were very unfairly appointed, the Deputy-Reeve, for instance, not put in any of the important committees, etc.

1. Can we reconstruct or form the committees over again next Tuesday? If so, how? Please give the way to do it briefly.

2. Also can the Mayor be a member of the principal committee outside of ex-officio, i.e. Can he be a regular chairman of a Committee?

3. Can the council reconsider the appointment of auditors which were appointed last Monday, if not, why?

1. Yes. By resolution of the majority of members present.

2. Yes.

3. No. Because section 258 requires the appointment to be made at the first meeting of the council, one by the head of the council, and the other by the council. They have already been legally appointed, and are the auditors for the year. The appointment made by the head of the council, though he has since been counted out, is valid.

Appointment of Clerk

51.—C. D.—A was appointed township clerk some years ago; last year B was appointed clerk. When B is appointed, must the by-law appointing A be repealed?

Section 279, Consolidated Municipal Act, provides that all officers appointed by a council shall hold office until removed by the council. We are, however, of the opinion that the appointment of a new clerk, operates as a removal of the old clerk by implication, and that it is not necessary to repeal the by-law appointing him.

Special Hunting Dog Tax.

52.—CLERK.—Has a Township Council power to impose or collect a tax (special) on dogs used for hunting purposes, either dogs owned in Township, or those coming from other Townships?

To be liable for the tax it must appear that the person sought to be taxed is the owner, possessor or keeper of a dog within the township. We cannot see why such a special tax may not be imposed. It is

a rule that a tax must not be discriminating, but a special tax upon the owners of all dogs used for hunting is not a discriminating tax any more than a special tax upon all bitches, and the latter has been considered valid.

Assessor or Collector.

53.—S. B. F.—1. Can the same person legally act as assessor, and collector?

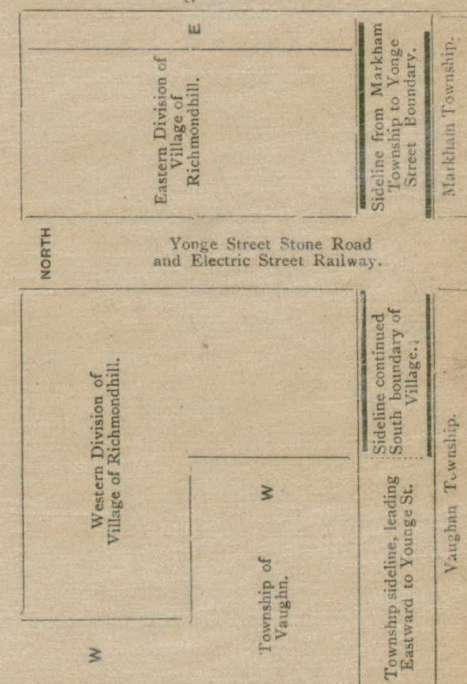
2. Or can the assessor be appointed collector after he has returned the roll?

1. No.

2. After the collector has returned the roll, and the council has accepted it and released him, so that he is no longer a collector, he may then be appointed assessor.

Maintenance of Roads Forming Boundary Lines.

54.—W. T.—By the enclosed diagram of our village, it will be seen that those parts of the side lines leading to the Yonge Street stone road from the Townships of Vaughan and Markham (lines with red ink) are taken in as the south boundaries of the western and eastern divisions of the village. The question has arisen as to whether or not those townships (Vaughan and Markham) should be compelled to contribute one-half to the proper maintenance of those parts of the side roads within the south boundaries of the village, as it is by farmers of those townships that the said lines are chiefly used in order to reach the stone road. Is there a law relating to such a case?



So much of the road as forms the boundary between the village and the townships, is under the joint jurisdiction of the village and the townships. See sections 538, 539 and 540, Consolidated Municipal Act, 1892.

Deputy Returning Officer May Not be Auditor.

55.—W. F.—Can a Deputy Returning Officer at the late Municipal Elections qualify as auditor? No.

Meat By-Law—Curfew Bell.

56.—G. G. A.—1. Can the council pass a by-law prohibiting or regulating the sale of meat by farmers in a town in quantities less than by the quarter carcass?

There is no established market here.