

that it was negligent in not having made an examination. Without a knowledge of the fact we cannot express an opinion as to whether the corporation is liable or not.

Maintenance of Township Lines in Districts.

**325.**—W. H. E.—Our municipality was formed a year previous to the one adjoining. We understand it is the duty of both to keep town-lines in repair, and each council put the same amount of work on. Our township has done at least twice as much work (except repairing a bridge) as the other township. What steps should we take to have them do their share? We have no county organization. The water all along the line runs off the other township to ours.

There does not appear to be any provisions affording a remedy for your municipality under its present conditions.

Qualification Municipal Candidates—Nomination.

**326.**—H. S.—I. A is down on assessor's roll as tenant in a hotel where he runs the boarding business. It is rated high enough. Can he qualify as a councillor?

2. B is down on roll rated for \$1,250, freehold. He has a mortgage on the property for \$900, notes to the amount of \$380. Can he qualify?

3. Is it necessary to pass a by law by council to enable clerk to deliver collector's roll to collector, or can it be done by resolution?

4. If those men in questions 1 and 2 cannot qualify, is it clerk's duty to refuse their nomination?

5. If no outsider objects, and they are elected by acclamation, would their election be legal?

1. We cannot see why he is not qualified. We assume that he is not licensed to sell spirituous liquors retail. See section 77, Consolidated Municipal Act, 1892, and sections 40 and 41, chapter 185, R. S. O., 1887.

2. Yes.

3. We think a resolution sufficient.

4. The clerk has no right to refuse nominations.

5. The fact that no objection is made and a man is elected by acclamation will not make his election legal if he does not possess the qualification required by law.

Clerk in Making Voters Lists to be Guided by Assessment Roll.

**327.**—C. P.—On our assessment roll are a great number of names.

1. Assessed as house holders, no valuation, (marked as H. H. or T.), the owner being assessed for the property.

2. Some assessed as (no valuation) M. F. or H. M. F.

3. Some assessed as joint owners with less than twenty acres meaning farmer's sons all in some other profession.

4. Some as joint owners (F. S.), of twenty acres but sons are clerks and don't make farming their business.

5. Some joint owners (F. S.), the father only has leased, not owner, don't live in municipality or on farm.

6. Some joint owners one-quarter acre lot just to give son a vote.

I contend that one-half I should put on part three according to the way they are assessed. Still I think they really should be on part one of right, but I don't think I could do it, that placing on part one was work of the Revision Court. I contend that a house holder as tenant, if the property is worth \$100, has a right to be put on part one, but in the absence of anything on roll to show a \$100 value I can't put on part one. I appealed to have all these house holders removed from part three to part one, but the sitting or acting judge ruled I should have put

them on part one first. I contend in the case of three, four, five and six that (unless actually joint owners) a joint owner as used in cases three, four, five and six must be farmers' sons actually living on and working the farm, and that the farm must not be less than twenty acres.

Looking at sec. 79, 80 and 85, it is probable there was enough shown on the roll to have justified putting the householder on part one, but in making up the Voters' List a clerk should be guided by what appears on the roll, and not by what the real facts of a particular case may be.

Nuisance on Highway—Medical Health Officer's Jurisdiction—Drainage.

**328.**—J. M. D.—1. The owner of a hotel for a number of years has run his waste water through a pipe on the street causing a stench from the earth having been saturated. Nine barrels of decaying vegetable matter has been removed from the ditch. The medical health officer, without consulting the Board of Health notified the owner to cease putting the water on the road. He did not comply. The medical health officer had the pipe cut and the offensive matter carted away, and presented the bill of cost to the council. Can owner be compelled to pay? The hotel has been leased about a year. Should the medical health officer have notified the tenant? Had he power to act without consulting the Board of Health?

2. There is an old railroad bed in this township which has not been used for over thirty years, and has never been assessed. Do not know the owner. There is a high dump running through A's land and about eighty yards of the road. The council dug a ditch around the end of the dump on road allowance, which let the water off the road on to A's land at the other side of the dump, where there is a natural hollow for the water to run until it joins the other course. A refuses in the future to let the council run the water on his land. All the water comes off A's land. He wants the council to dig a ditch through the dump. Can he do so, or can he prevent the council using the ditch already dug around end of dump?

1. We do not think the medical health officer had authority to proceed in the manner which he did in this case and charge the expense to the council, neither is the owner liable. The tenant should have been notified and proceedings taken for violation of section 4, By-law schedule A to Public Health Act.

2. The council have no right by the construction of the ditch in question to bring water which would not naturally flow there upon A's lands or in greater volume or with greater speed so as to cause damage to his lands. Where a municipality desires to get rid of surface water, the council should take proceedings under the Ditches and Watercourses Act.

May Exempt Mill from Taxes.

**329.**—W. R. McP.—A party has expended about \$6,000 in a grist mill here which will be a great benefit to the farmers of this township, and he asks to have it exempt from taxes. We hear other corporations talking of doing such things, and our council are willing to grant his request if they can do so legally.

1. Can a township council exempt grist mill from municipal taxes?

2. Do sections of Municipal Act, referred to in October issue of your paper, question 270, apply to exemption from taxes?

1. The council may, by a two-thirds vote of the members thereof exempt any manufacturing establishment in whole or

in part from taxation, except as to school taxes for any period not longer than ten years, and to renew the exemption for a further period not exceeding ten years. See section 366, Consolidated Municipal Act, 1892.

2. No.

Qualification for Reeve or Councillor.

**330.**—VOTER.—1. Is a reeve, deputy-reeve or councillor qualified to serve as such in a township or county who is assessed on real estate as follows: Freehold, \$400, and as tenant \$100, with an encumbrance on his freehold of \$300?

2. Also, is he qualified if he is assessed as follows: Tenant, on real estate, \$1,000, and personal \$200, with an encumbrance on the real estate of \$1,500?

3. If not qualified, would the proceedings done by the council of which he is a member be legal either in the township council or the county council?

1. No.

2. Yes

3. The law is that the acts of a municipal council are valid, as respects the public and third persons, though some of the members are really disqualified, but a disqualified member cannot claim any benefit himself.

Dog Tax By-Law for One Year—New Petition Necessary.

**331.**—TOWNSHIP CLERK.—In 1895 there was a petition presented to the council, with the names of twenty-five ratepayers, asking the council to pass a by-law not to collect a tax on dogs and bitches, as required by 53rd Vic., chapter 62, section 2 of the act to impose a tax on dogs and bitches. The council passed the by-law, as requested, dispensing with the tax on dogs and bitches for the year 1895. During the present year there has been no petition presented to the council in the matter of not taxing dogs; the council took no steps in the matter, as the reeve made a statement that he had been informed that it did not require a by-law to be passed every year, but it was understood at the meeting of the council in August that there was to be no taxes on dogs; there is, therefore, no taxes placed on the collector's roll this year against dogs. There has been application made to the reeve to be laid before the council at its next session asking for payment for sheep killed by dogs, they basing their claim that there was no by-law passed by the council not to collect the taxes on dogs, the taxes should have been placed on the collector's roll against persons owning dogs, and that they would hold the council responsible.

1. Was it required to have a by law passed the present year not to collect the taxes on dogs?

2. As there was no by-law passed, should the taxes have been placed on the collector's roll against persons owning dogs?

3. Would it be legal at the next session of council if a petition should be presented to the council with the names of twenty-five ratepayers for the council to pass a by-law to that effect?

The by-law does not help the council because it was limited to the year 1895 under section 1, of chapter 62, 1890. There must be levied in every municipality a tax of one dollar for a dog. Section 18 gives the owner of any sheep killed by dogs under the circumstances therein stated a claim against the municipality for two-thirds of the damages sustained by him.

1. Yes. But the by-law passed in 1895 might, instead of having been limited to