

For particulars, see Question No. 10, in January WORLD.

Commutation of Statute Labor in Police Villages.

161—J. R.—In the past the statute labor in this village has been done by some paying 80c. per day, others, who did not pay, were allowed to perform their own statute labor. This plan has not been at all satisfactory.

1. Has any Act been passed recently, empowering police trustees in a police village, to take over the statute labor in said village after the township council have consented thereto?

2. Can said trustees levy a rate (say 50c. or 60c. per day) and compel residents in village to pay in order to maintain the sidewalks, etc.

3. Can commutation of statute labor be established by trustees in the village, even though the municipality outside have not yet adopted the system?

1. Section 103 of the Assessment Act, provides that, "The council of any township may, by by-law, direct that a sum not exceeding \$1 a day shall be paid as commutation of statute labor for the whole or ANY PART of such township, in which case the commutation tax shall be added in a separate column in the collector's roll, and shall be collected and accounted for like other taxes." The trustees of a police village have no power to commute statute labor within the precincts of the police village, or to collect and enforce payment thereof, when it has been commuted. This the township council of the township in which the police village is located, may do, and pay over the amount of the commuted statute labor when paid, to the trustees of the police village, to be by them expended therein as authorized by the statute.

2. No. The trustees of a police village have no legal authority to levy rates of any kind within the limits of the police village.

3. As stated above, the police trustees have no power to do this. If the statute labor be commuted within the limits of the police village, it must be accomplished by by-law of the township council.

Withdrawal of Resignation of Councillor.

162—F. J. C.—A gentleman who was elected to our council in January last, took the necessary qualification papers and took his seat at the council, has since tendered his resignation, but now he wishes to withdraw his resignation. This resignation has not yet been presented to the council as there has been no meeting of the council since he tendered his resignation. Can I return to him his resignation without first presenting it to the council?

Section 210 of the Municipal Act provides that "any mayor or other member of a council may, with the consent of the majority of the members present, to be entered upon the minutes of the council, resign his seat in the council." Until such consent has been given and recorded, the office is not vacant, and in the case of Reg vs. Lane (2 Ld. Rayd., p. 1304), it was held that up to that time the offer to resign may be recalled. If he chooses, the member who has tendered his resignation, may allow it to stand until the council meets, when, if a majority of the

members present do not accept it, the matter is at an end, but he is not bound to do that, but may recall it.

Assessor's Declaration of Office.—Application of Fines.—Qualification of Councillors.

163—J. M.—1. Is assessment legal where assessor goes on and does assessment without first taking oath of office, clerk being notified by council to appoint no officer without first having them take declaration of office?

2. If a man is fined for disturbing the peace what proportion of said fine is payable to the municipality? Two parties have been fined, one for \$5 and one for \$20. The \$5 was paid in full to township but nothing has been heard of the \$20 fine.

3. Our municipal elections have never been held under qualification. There are over ten now in our municipality who can qualify. What is the legal way to proceed at nomination under qualification?

1. Since the clerk has no authority to make any appointment to a municipal office, we presume that your council instructed him not to allow any of the other officials to enter on the discharge of the duties of their respective offices until they had made and filed with him the declarations of office required by law. An assessor should make the declaration of office set forth in section 312 of the Municipal Act before entering upon the duties of his office, and file it with the clerk. If he does not make the declaration within the time mentioned in section 319 of the Act (twenty days) he will be subject to the penalties imposed by that section; but failure to make the declaration does not of itself render void his official acts done in the meantime. (See Lewis vs. Brady, 17 O. R., pages 377 and 390.)

2. We cannot answer this question until we know the particular Act under which the fines were imposed.

3. Your municipality, being a township, the council is composed of a reeve and five councillors. Section 79 of the Municipal Act provides that "In case, in any municipality, there are not at least two persons qualified to be elected for each seat in the council, no qualification beyond the qualification of an elector shall be necessary in the persons to be elected." Since there are ten men who are qualified under section 76 of the Act to be elected, in the future, parties nominated and elected should be only those who can qualify under that section. It is a question whether the words "qualified to be elected" apply simply to qualification in respect of property, or to every other statutory qualification. In the case of Reg. ex. rel. Bender vs. Preston (7 U. C. L. J., page 100), it was judicially stated that the words must be construed in the larger sense, *i. e.*, for the benefit and advantage of the whole body of electors; for if it should happen that all those who might be qualified as respects property were disqualified as respects interest or otherwise, the municipality could have no council if the inhabitants could not resort to the general body of electors for councillors.

By-Law Commuting Statute Labor.—Expenses of Isolating and Attending Small-Pox Patient.

164—SUBSCRIBER.—1. On page 32 of your February number, you publish a report of commutation of statute labor. Please publish a form of by-law suitable in this case.

2. A child is turned out of school, the teacher supposing she is suffering from small-pox. The board of health send for medical practitioner to investigate the case, which he does, finding the report true. He proceeds to quarantine the house and vaccinate the inmates except the child suffering from disease. He called a second time, at time of release, and disinfected the house. I claim, that as the doctor vaccinated several members of the family and disinfected the house, he was attending them, and although he was called by the board of health of our municipality, the persons quarantined are obliged to pay said doctor's fees to us, although we will be forced to settle with the doctor. This is an unorganized district without a county council. Am I right?

1. On pages 68 and 69 of THE WORLD for 1900 (May issue) you will find a form of by-law commuting statute labor in a township.

2. It is not stated whether the medical practitioner was the medical health officer for the township, appointed pursuant to section 31 of the Public Health Act. If he was, his pay for services rendered in this case would be included in the salary the council agreed to pay him. If he was not, the board of health should pay him a reasonable sum for the investigation of the case which resulted in the isolation of the family afflicted. If the person afflicted, or his parents, or other person or persons liable for his support, are able to pay the account incurred for nursing and other assistance and necessities furnished, including the cost of medicine and medical attendance, and vaccinations, and for disinfecting the premises, they should pay the same. If they are unable to do so, the municipality will have to pay it. (See sections 82 and 93 of the Public Health Act, R. S. O. 1897, chapter 248, and subsection 1 of section 4 of chapter 249, R. S. O., 1897.)

Assessment of Non-Resident Tenant—Placing Him on Voters' List.

165—TOWNSHIP CLERK.—1. A person residing in one municipality and leasing or working, on shares, land in an adjoining municipality, would such tenant be entitled to be placed on the assessment roll by the assessor?

2. If such tenant was placed on roll and copied by the clerk on voter's list, would he have a right to vote at municipal elections?

3. If entitled to be on voters' list, what part?

1. This person should be placed on the assessment roll of the municipality in which the land of which he is tenant is situated as tenant thereof, and, if the name of the owner is known, he should be assessed for the land with the tenant, as provided by sec. 20 of the Assessment Act.

2. If this tenant is placed in part 1 of the voters' list by the clerk, as he should be, and can at the date of the election fulfill the requirements of subsection 1 of section 86 (secondly) of the Municipal Act, and, if his vote be objected to, he takes the oath prescribed by section 113