

2. Is an assessor obliged to take a store keeper's statement as to the amount paid on stock, or can he assess store goods to the amount he thinks proper and then let store keeper appeal at Court of Revision and take his affidavit to same?

3. Has council power with consent of rate-payers to exempt school rates on mill site property. No by-law has been passed nor will be up to April 1st, 1898?

4. Does the exemption of municipal rate include road work or not.

5. Are ties, pulp wood, cordwood or any other timber assessable when it is piled along lake shore or roads within the municipality?

1. The buildings ought to be assessed at their actual value. Sub-section 22, section 36, R. S. O., 1897, contemplates the assessment of the buildings first in the usual way, because the annual value is fixed upon the basis of the assessed value of the premises. The by-law should be passed and the rate struck afterwards.

2. He is not bound to take the store-keeper's word. If he is not satisfied he may assess the goods and leave the owner to appeal.

3. No. See section 73, chapter 292, R. S. O., 1897, and section 417, chapter 223, R. S. O., 1897.

4. Yes.

5. Yes.

Mutual Fire Companies' Assessments and Notes.

172.—T. T. L.—1. Can a mutual fire insurance company make a special assessment after the policy expires, the regular annual assessment being paid in advance?

2. Can the insurance company hold the premium note after the policy expires, if the policy-holder demand it after it runs out?

1. Yes, for payments if any remaining unpaid.

2. Section 137 (2), cap. 203, R. S. O., 1897, provides: "On the expiration of forty days after the term of insurance has ended, the premium note or undertaking given for the term, shall be absolutely null and void, except as to first payment or fixed payment remaining unpaid, and except as to lawful assessments, of which written notice, pursuant to sections 130 and 131, has been given to the maker of the premium note or undertaking during the currency of the policy or within the said forty days, and on the expiration of the said period the premium note or undertaking shall, upon application therefor, be given up to the maker thereof, provided all liabilities with which the premium note or undertaking is chargeable as aforesaid, have been paid."

Ditches and Watercourses Act Proceedings—Continued.

173.—W. S.—A person takes all the necessary steps, according to the Ditches and Watercourses Act, 1894, up to the calling of the engineer. The reason he was not called was that winter had set in for good by this time, so that he could not do his work properly. Now, can this man commence where he left off, or will the grounds all have to be gone over again, i. e., sign the declaration of ownership and call a friendly meeting, etc.?"

Under the circumstances we are of the opinion that the owner may continue the proceedings without beginning de novo, that is, he may now file the requisition as

provided by section 13 of the Act. Had he abandoned the proceedings it would have been different. But he does not appear to have done that, but delayed taking the next step because the work could not be done during the winter.

Union School Section Rates Differ.

174.—CLERK—I live in township A and belong to a union public school, composed of parts of townships A and B, the school-house being situated in township B. The rate in township A for the general public school levy is 12 mills on the dollar and the rate in township B for the same levy 9½ mills on the dollar.

1. Which of the above rates should I pay?

2. Is B entitled to receive from A an amount calculated at 12 mills on the dollar of the equalized assessment of the A portion of the union, or only an amount calculated at 9½ mills?

1. You must pay twelve mills on the dollar, on your property in A, and 9½ mills in B.

2. For the purpose of equality section 51 of the Public Schools Act provides for the equalization of the lands in the school section as between the two municipalities. The total amount required by the trustees is apportioned between the two municipalities on the basis of the equalization made under section 51. Each municipality must then impose such a rate as will raise the amount which it is required to pay over to the trustees as its share. Each collector is to pay over the moneys collected to the treasurer of his municipality, and such treasurer pays the total amount to the trustees. See section 46 and 66, sub-section 2, of the Public School Act.

Stationery for Police Magistrate.

175.—F. J. C.—We have a police magistrate residing in this town. He receives no salary from the corporation. Is it the duty of the corporation to furnish him with an office, together with fuel, light, stationery and furniture or any of these things at the expense of the corporation. Should your answer be in the affirmative, will you please point out the law that requires the council to do so?

Yes. Section 479 (1), chapter 223, R. S. O., 1897, provides, "The council of every town and city shall establish therein a police office; and the police magistrate, etc., shall attend at such police office daily, or at such times and for such period as may be necessary for the disposal of the business brought before him, etc," and sub-section (2) the same section, provides "The council shall from time to time provide all necessary and proper accommodation, fuel, light, stationery and furniture for the police office, and for all officers connected therewith."

Assess Telegraph and Telephone Poles.

176.—A. J. R.—Can telegraph and telephone poles be legally assessed within an incorporated municipality?

Yes.

Assessor or Councillor.

177.—A. B. C.—Our assessor was nominated for a councillor at the regular nomination in December, 1897. Before his nomination he did not resign his assessorship, but he did at a

special meeting held after the nomination, and the council accepted his resignation. He was elected to sit as a councillor and took the declaration as such. He sat at the council board for two meetings and transacted business, but hearing that an effort was being made to unseat him he placed a disclaimer in the hands of the clerk. At the next meeting of the council he sent a communication to the council re disclaimer. The council decided they had no right to deal with the matter. Two meetings went by and at the third meeting he took his seat and transacted business—voted moneys to pay accounts presented.

According to the foregoing brief account, is he qualified to sit at the council board, and if not, what steps can or should be taken to unseat him?

It is now, no doubt, too late to question the validity of the election upon the ground that the councillor, being an assessor at the time of the nomination, was then disqualified. Assuming, however, that the disclaimer was in proper form, he ceased to be a member as soon as it reached the clerk, and he had no right to sit in the council thereafter, and a new election ought to have been held.

Non-Resident County Councillor.

178.—INQUIRE.—Can a County Councillor or commissioner retain his seat legally as such councillor and remove to another county? He still owns and holds his farm in the county for which he was elected.

Section 5 of the County Council Act says, "Each sub-division shall be designated and distinguished by its number, and shall be represented in the county council by its members, who shall hold office for the term of two years, and who shall be resident of the division for which they are councillors." We are of opinion that the residence required in this section has reference to the time of the election of a county councillor, and that it does not apply to a councillor who, subsequent to his election, ceases to be a resident. Section 207, and following sections of the Municipal Act, R. S. O., 1897, shows the acts arising after election which creates a vacancy in the council.

No School Tax Exemptions.

179.—B.—A municipal council legally post up notices asking ratepayers of this municipality to come on a certain date to vote for or against the exemption of tax on a mill site and adjoining tract of land. All who came voted for exemption of tax. Will this vote exempt said property of both municipal and school tax, it being understood by a great many of said voters that they were exempting school as well as municipal tax, or have the ratepayers authority to exempt school rate by legal vote with council consent and by-law? It is maintained by some that school tax cannot be exempt if one ratepayer objects. On this occasion none voted against exemption, but a number of ratepayers did not vote at all. In your March number you refer us to section 73 of School Act, also saying unless council had passed a by-law after 14th April, 1892, school tax could not be exempt, but said section says by-law should have been passed prior to that date. Did you make mistake and print the word "after" instead of "before"? According to section 73 of School Act the council cannot exempt school tax as we had no by-law passed prior to 14th April, 1892. What we want to know is, can we exempt school tax by legal vote of ratepayers called by notices being