

Qualification of Town Councillor.—Dual Voting on Money By-Law Still Legal.

24—C. G.—1. What is the necessary qualification for a councillor in a town? The Act, chap. 223, section 76, subsections, or paragraphs B and F., seem to contradict each other.

2. Can an elector vote on a by-law to grant a loan or bonus or an exemption from taxes other than school taxes in every polling subdivision in which he possesses the necessary qualification?

1. A person to qualify for election as councillor in a town must have, or his wife must have, at the time of the election, as owner or tenant, a legal or equitable freehold or leasehold or an estate partly freehold and partly leasehold, or partly legal and partly equitable, which is rated in his own name, or in the name of his wife, on the *last revised assessment roll* of the municipality to at least the value following, over and above all charges, liens and incumbrances affecting the same: Freehold \$600 and leasehold \$1,200. If the amount of the assessment is \$2,000 the question of existing incumbrances need not be taken into consideration. Clause (f) does not in any way conflict with above, and if you read the subsection carefully, you will observe that this clause applies only to towns located in the districts and provisional county referred to in the first three lines of subsection 1.

2. Section 355 of the Act authorizes a voter to vote on a money by-law in each ward in the town, in which he possesses the necessary qualification. Dual voting at *municipal elections* was abolished by sections 9 and 10 of the Municipal Amendment Act, 1901.

Filling Vacancy in Office of D. R. O.

25.—J. K.—1. We appointed D. R. O.'s at last meeting, and one of them is to be nominated for councillor. How will his place be filled as D. R. O.

2. We passed a local option by-law, to be voted on January 6th, 1902. Should it receive a majority of votes of electors, and a new council elected, could they refuse to pass it finally?

3. We have published the local option by-law with notice that the reeve will be at the town hall, on nomination day, at two p. m., to appoint two persons to attend at the summing up of the votes, and one person for and against the by-law at each polling division. Is the reeve obliged to make these appointments if the parties do not ask for them?

4. Will reeve announce at meeting that he will make such appointments at such hour, or is the notice given in by-law sufficient?

5. Will the two who sum up the votes require to be chosen from opposite sides, for and against?

1. Subsection 1 of section 108 of the Municipal Act provides that "in any case where a deputy-returning officer REFUSES or neglects to attend at the time and place at which he is required by the returning officer to attend to receive his voters' lists and other election papers, the clerk of the municipality shall appoint another person to act in his place and stead, and the person so appointed shall have all the powers and authority which he would have had, had he been appointed by by-law."

2. It is in the discretion of the council as to whether they finally pass a by-law of this kind or not, notwithstanding its

having received the assent of a majority of the electors. See our answer to question No. 6 in this issue.

3. The steps to be taken in submitting a by-law of this kind to the electors are those set forth in section 338 and following sections of the Municipal Act. Section 342 provides that "at the time and place named (in the by-law) the head of the municipality SHALL appoint in writing signed by him, the persons named in that section. He must make these appointments whether the parties ask for them or not.

4. The notice given in the by-law is quite sufficient.

5. Two of the persons appointed by the reeve should be in favor of the passing of the by-law and two against it. See section 342.

Statute Labor Commutation in Police Village.

26.—N. B.—You have omitted to say whether the by-law has had the effect of commuting the statute labor or not. A portion of it being clearly bad on its face, does it have the effect of nullifying the whole of the by-law, or will the portion in accordance with the Act stand good while the balance must fall?

When a by-law provides for say two distinct matters, one of which is good and the other bad, the part which is good is not infected by the part which is bad, but in this case the by-law deals with one matter and, what the council has done being beyond its powers, the by-law is invalid in toto. See also No. 22.

Qualification of School Trustee.—Right of Returning Officer.

27—SUBSCRIBER.—1. Is a resident of our village, who is not rated on the assessment roll, only paying \$1.00 poll-tax, eligible for school trustee? His name is on part 3, of voters' list as M. F. only.

2. Would I, as returning-officer, be justified in taking his nomination on nomination day?

1. No. See subsection 2 of section 56 of the Public Schools Act, 1901.

2. Yes. It is not for a returning-officer presiding at a nomination meeting to say whether parties nominated are qualified or not. This is a question for the courts to decide when a candidate's election is contested under the provisions of section 63 of the Public Schools Act, 1901. If the returning officer refuses a nomination and it happens that the person nominated is not qualified he takes the risk.

Police Village's Share of Township Rate.

28—W. D.—We have a police village in our township. What portion of the township rate on the assessment in the village is the village entitled to?

This altogether depends upon, and should be regulated by, the terms of an agreement to be entered into between the trustees of the police village and the township council pursuant to section 740 of the Municipal Act.

Ward System in Towns—Dual Voting on Waterworks By-Law.—Vote of Returning-Officer.

29—T. A. M.—1. A few years ago the Ontario Government made it possible for towns to

abolish the ward system of choosing and voting for council. At the time our council took no action but adopted the system. Should we have taken any special course?

2. Can we now resort to the ward system?

3. When voting on waterworks by-law can qualified voters vote in any ward or polling subdivision where they have the qualification?

4. I observe the R. O. has no casting vote on by-law, can he vote if otherwise qualified?

1. No. By the operation of subsection 1 of section 71a, of the Municipal Act, (enacted by section 2 of the Municipal Amendment Act, 1898) the council of your town (which has a population of less than 5,000) consists of a mayor and six councillors, to be elected by a general vote.

2. After two annual elections have been held in your town, under the above section, you can return to the ward system of electing councillors on observing the provisions of subsection 2, of section 71a.

3. A voter has a right to vote on such a case in each ward in which he has the necessary qualification. See section 355 of the Act.

4. No. See our answer to question 34.

Qualification of Division Court Clerk as Councillor.

30—J. H.—Is a person, who holds the office of Division Court clerk, eligible for the office of councillor in our municipality?

Yes. Section 80, of the Municipal Act, disqualifies a BAILIFF of Division Court, but not a CLERK.

Equalization of Union School Section.—Change in Tax Bill.—Qualification of School Trustee.

31—SUBSCRIBER.—1. When two assessors fail to agree in equalizing a union school section, and postpone the meeting until the time expires and no award is made, can it be done next year, or does the old award stand for another term, three years?

2. Has a clerk any authority for changing the amount on the tax bills after the collector has issued the same, if they are wrong, or would the reeve have the authority?

3. Have not all rebates or refunds to be passed or allowed the collector on his roll by the council in session?

4. Can a clerk or councilman act as trustee of a school board?

1. There was, in effect, no equalization of the assessment of this union school section. When the assessors failed to agree on the amount, they should have notified the public school inspector in whose district the union school is situated, to determine the matters in difference between them. This work can be done by the assessors appointed next year and the old award will govern, until replaced by a new one.

2. No. Neither the clerk nor the reeve has any such right.

3. Yes. (See section 147 of the Assessment Act.)

4. Assuming that you mean a Public School Board, yes; but a councillor cannot be a High School Trustee. (See sec. 80 of the Municipal Act, sub-sec. 1.)