

paid down cash. What ought each to receive back now in rebate for his money so paid in advance into the township treasury? Debentures date from 1895 to 1915. It seems to me those men have a moral right to the one per cent. township gained on sale of debentures, and nothing further, as they but paid present cash value without reference to the twenty year tax on the rest of the people.

The three mentioned having paid in the amount of their assessments and the amount of the debentures having been reduced as directed by section 54 of the Drainage Act, we think they are not entitled to refund under section 66, sub-section 3 of same act.

**Tax Sale—Redemption—Nomination of Disqualified Person.**

183.—J. W.—1. A lot was put up for sale for taxes. Costs and taxes amounted to \$30. At an adjourned sale the lot brought only \$5. Can the original owner redeem said lot by simply paying the \$5 and 10 per cent, leaving the town minus \$25?

2. If a man buys a lot at tax sale can any person redeem said lot by tendering what the buyer paid and 10 per cent and compel him to give the lot up.

3. At a nomination of town councillors, the town clerk presiding, would he be justified in refusing the nomination of a person, who, according to the last revised assessment roll was not qualified for the position under section 73, Consolidated Municipal Act? If in a ward where three councillors were to be elected there were four nominated. One of four was not qualified but did not resign, should the clerk declare the other three elected by acclamation or should he get out ballots for the four and let them go to an election?

1. No. See section 170 of Assessment Act, sub-section 2.

2. Yes.

3. The clerk or returning officer cannot refuse to receive the nomination of any person, when proposed in the regular way. He is not to consider whether they are qualified or not, and in case of an election must prepare ballots for all.

**Resolution Sealed a By-Law.**

184.—P. B.—1. Can you give me the law or practice in connection with regulations of council, where it is moved that the corporate seal be attached to give this motion the force and effect of a by-law.

2. Would such a motion to say "abolish the office of town solicitor" with this addition be admissible?

1. The municipal rules of procedure generally require more formal steps to be taken in passing a by-law, than in adopting a resolution. Section 283, of the Consolidated Municipal Act provides that every council may make regulations not specifically provided for in the Municipal Act, and not contrary to law for governing the proceedings of the council. The parliamentary procedure of reading all bills three times is usually adopted by councils, but where no by-law of rules and regulations has been passed, requiring a by-law to be read three times, any resolution may be worded "that the corporate seal be attached to give this motion the force of a by-law." This when duly signed and sealed is a by-law, and should be numbered and filed as such by the clerk.

2. Yes.

**Park Board—Meeting—Vacancies.**

185.—C. M. B.—Our municipality last fall adopted the Public Parks Act. The by-law was finally passed by the council, and the reeve at the first regular meeting subsequent to the passing of the by-law nominated the members of the Park Board. The council ratified the reeves nomination, but he failed to call the members of the board together within the ten days specified by the Parks Act. Has the present reeve power to call the Board together, and can they now organize and legally act? How can the difficulty of two dropping out on the 1st February, subsequent to their appointment be met?

The council may fill the vacancies on the nomination of the reeve, who may call the board together as soon as may be thereafter.

**Equalization of Union School Sections.**

186.—D. C.—Under the Public Schools Act the Ontario Statute provides that the assessors of municipalities where a union school section exists, shall meet in every three years and determine what portion shall be levied and collected from the taxable property in each municipality where the union exists to make the necessary amount required by the trustees.

1. Is it the duty of the assessor to consider how much the properties in the respective municipalities are assessed at and to make the assessed value in each township where the U. S. S. exists of the same value according to the acres cleared?

2. Or is it their duty to strike the amount of the portion to be raised on the assessed value in the year in which they have to meet, as set down in the assessment rolls of the respective municipalities for that year?

The assessors should value all taxable property in the union section, on the same basis and the relation the valuation of the property in the different municipality bears to the total valuation of the section determines the portion of the public school rates to be levied on each.

**Collectors Seizure—Pathmasters Ditches—Treasurer or Bank.**

187.—COUNCILLOR.—1. Can a collector for arrears of taxes, seize any property he may find on the premises belonging to the party or his family? or can they claim the exemptions as in a common debt?

2. Has a pathmaster a legal right to make a ditch in front of a residence, providing it is not the regular watercourse? If so, would the council have to provide a bridge for the party to get to said residence?

3. Would it be legal for a council to dispense with a treasurer and deal direct with a bank, having all money paid into the bank to credit of township and drawn therefrom by cheque of reeve?

1. Chattels which are exempt from seizure under an execution are also exempt from taxes except they belong to the person actually assessed for the premises, and whose name also appears upon the collector's roll as liable therefor.

2. The council is under no obligation to provide bridge for the purpose stated.

3. It is the duty of the council to appoint a treasurer. See section 249 Consolidated Municipal Act, 1892.

**Repealing By-Law Repealed.**

188.—F. J. C.—The council pass a by-law which we call No. 1, sometime after they pass by-law No. 2 repealing by-law No. 1, and some time later on they pass by-law No. 3, repealing

by-law No. 2. Does by-law No. 3 repealing by-law No. 2, re-enact or revive by-law No. 1?

Before answering the above we require the subject matter of the by-law.

**A Legal Expenditure.**

189.—A. J. F.—The town council of 1895, placed \$1,200 in the estimate for a sewer. The appropriation was contingent upon sewer being constructed on the frontage tax system. The amount was included and levied in the town rate.

The council of 1896 did not construct the sewer, but spent the \$1,200 in other works and covering deficit of 1895.

Is the expenditure of the \$1,200 illegal as contemplated by sub section 2 of section 263 of the Consolidated Municipal Act of 1892?

Assuming that the \$1200 was raised by a rate upon the whole taxable property of the town and that it has been applied upon liabilities of the town, we fail to see how it can be characterized as a payment of money contrary to law.

**Road to be Opened—Fences.**

190.—CULROSS.—We have a case the same as stated in question 105 in last months number. Your answer "Yes" does not appear to answer both questions.

1. If A is compelled to remove his fence can he compel the council to make said road passable for teams?

2. Would a by-law to remove the fence stand law, or must it be worded to open the road?

3. Is there any way of getting the fence removed without having to expend money for opening the road fit for travel?

4. Is A legally possessed of the road against B, or can he put down the fence put up by A, so as to use the road allowance for driving his cattle to his back field?

We applied to a lawyer who, we understand, is employed by the year, to give advice to A, to draw up a by law to remove the fence. He said it must be for opening the road. We do not want to get into trouble.

1. No.

2. The by-law should provide for opening the road and directing pathmasters to notify all persons having fences or other obstructions on the road to remove the same.

3. The council is not bound to make the road fit for travel.

3. The person in possession under the circumstances stated in section 552, Consolidated Municipal Act, 1892, is entitled as against any other private individual until the council passes a by-law to open the road.

**Mechanical Drainage—Costs of Operation.**

191.—P. I.—In a drainage system requiring mechanical means to expel the water, and in which no provision has been made by engineer for the assessment of the cost of operating the pumping works in connection therewith.

1. What steps should the council take to have the cost of the operating assessed against the lands?

2. Should the cost of operating the works be assessed against the lands and roads benefited, pro rata with the cost of construction?

3. Can they vary the assessment each year, as the necessity occurs, or must it be a fixed rate for each year?

1. The council should pass a by-law under section 81 of the Drainage Act, 1894.