

1. Sec. 96 of The Assessment Act provides as follows: "No person in Her Majesty's naval or military service on full pay, or on actual service shall be liable to perform statute labor or to commute therefor, nor shall any non-commissioned officer or private of the volunteer force, certified by the officer commanding the company to which such volunteer belongs or is attached as being an efficient volunteer, and this last exemption shall not apply to any volunteer who is assessed for property."

2. Yes, upon the production of a certificate that he has performed statute labor, or paid the tax elsewhere. See sections 97 and 99 of The Assessment Act.

Voter's Qualification.

92.—A person born in the United States of British parents comes over to Canada to live. Is he eligible to vote at parliamentary and municipal elections, or must he be naturalized?

The person referred to is eligible to vote as stated, if at the time of his birth his parents were still British subjects, and he, previous to coming to Canada, had not taken the oath of allegiance to the United States or any other foreign power. It has been judicially held that where a voter in support of his own vote swore that he was born in the U. S., but that his parents were British subjects, and that he derived the knowledge of both facts from his parents; that his whole statement must be taken together and vote good. Re Mulvennan's vote, Lincoln (2) 1. H. E. C. 500; also the evidence of a voter that he understood from his parents that he was born in the U. S. but that his father was born in Canada, and that he (the voter) had lived in Canada from infancy, was received, and vote held good. Wright's case, Brockville 1. H. E. C.

Company Road—Abandonment of.

93.—E. D.—The Proof Line Road Company are about to abandon $1\frac{1}{2}$ miles on the north end and about $\frac{3}{4}$ of a mile on the south end of their road, in the township of London. In the $\frac{3}{4}$ of a mile about to be abandoned a bridge known as Brough's Bridge is included. The rebuilding of this bridge will cost from \$12,000 to \$15,000.

The notice calling a special general meeting of the stockholders declared that the object of the meeting was to decide whether they would rebuild the bridge or abandon a portion or portions of the road.

The company had previously, some years ago, abandoned at both ends of the road.

The Road Companies Act provides that they cannot abandon an intermediate portion without the consent of the county council.

1. Can they abandon with the declared object of avoiding the expense of rebuilding the bridge?

2. Can the portions now abandoned be considered intermediate portions on account of the previous abandonments?

3. One definition of the word "intermediate" is, "in the middle between two extremes." Would this definition stand good in law?

4. What would be considered the extremes or extremities, at the end, or actual termination, or elsewhere, say a rod, sixty rods, one half a mile, or where?

5. Can the portion abandoned be considered intermediate portions on any grounds?

6. Was it the intention of the Act to consider all portions other than the whole "intermediate portions," as there is, I think, no provisions in the Act as to what is to be done in case of an abandonment other than of an intermediate portion or the whole?

7. Has the township any grounds on which to base a suit in order to avoid the expense of rebuilding the bridge?

Sub-section (1) of section 50 of the General Road Companies Act gives a road company the right to abandon the whole or any portion of the road. It does not matter what the object of the company may be. The right does not depend upon any condition. It is absolute. We think that the intention of the legislature in enacting sub-section 4 was to prevent a road company from dividing a road into two parts. It therefore follows that the company in this case is not prevented from abandoning further portions because it some time ago abandoned a part of the road at each end. If we are right it follows that the township has no ground for a suit to avoid the expense of rebuilding the bridge. We do not consider it necessary to express any opinion upon questions 3, 4, 5, and 6 for the simple reason that the law permits the company to abandon such portions of the road at each end, as it sees fit.

School Arbitrator—Surplus—Gravel By-Law.

94.—J. Mc —1. In appointing an arbitrator to form a new school section or alter school section, is it necessary to appoint by by-law or is it sufficient to appoint by a motion at council board?

2. How much, if any, of a balance of funds is a council allowed to have on hand at end of year after paying liabilities?

3. If municipal council desire to open up gravel pits in different parts of township, what form of by-law is it necessary to have, to empower commissioners to enter, open up and take gravel off property in opposition to owner of said property?

1. Section 38 of the Public Schools Act authorizes township councils to pass by-laws for forming a new school section, if they deem it advisable to do so. Section 39 of the act, as amended by section 4 of chapter 36 of the Ontario Statutes, 1899, (62 Vic.) makes provision for an appeal against any such by-law, or against the neglect or refusal of the council to pass any such by-law, to the council of the county in which the local municipality is situated. In the latter case the county council is empowered by sub-section 3 of the last mentioned section to appoint arbitrators as therein mentioned, to settle the matter complained of. These appointments must be made by by-law of the county council. The Public Schools Act makes no provision for the appointment of an arbitrator in a case of this kind by the township council.

2. The council of every municipality should, when striking the rate of taxation each year, provide for the raising of sufficient money to meet and pay the current expenditure of the year. There should be no surplus after necessary expenditure has been met, except such as may result from the total amount raised, being only an estimate of the amount

that would be required for necessary municipal purposes.

3. The council should pass a by-law under the authority of sub-section 10 of section 640 of The Municipal Act. If the council and the owner of the land on which the gravel is located cannot agree as to the right of entry upon such lands, or the price of damage to be paid for such gravel; clauses (a) and (b) of the sub-section quoted, provide for settlement of the matter by arbitration, as set forth in The Municipal Act.

LEGAL DECISIONS.

Trustees of Union School Section Three of the Townships of Nicol and West Garafraza vs. Maitland.

Judgment on appeal by defendants from judgment of Street, J., who tried the action without a jury at Guelph in favor of plaintiffs, setting work on award of arbitrators appointed under the public schools act by the County Council of Wellington, forming Union School Section "G." of the Township of Nicol and Pilkington. Appeal dismissed with costs.

Verdict Against the Railway.

Mr. Justice Rose recently gave judgment in the case of the Canada Atlantic Railway against the village of Rockland. The action was brought against the village and its reeve and treasurer for a declaration that the plaintiffs are entitled to the bonus benefit granted them by defendants, and are entitled to the issue of \$6,000 worth of debentures thereunder, and for a mandamus. It was held on the evidence that the railway was not built and completed to the village of Rockland within the two years required by the by-law. The action was dismissed with costs.

Village of Hintonburg v. Ottawa Electric R. W. Co.

Judgment on appeal by plaintiffs from judgment of MacMahon, J., who tried the action without a jury at Ottawa, dismissing it with costs. Action to recover \$723.32 which the plaintiffs were obliged to pay to the George Matthews Company, pork packers, for injury to the property of that company by reason of the raising of the grade of a street in the village, and for costs of an award made against the plaintiffs, and for their own costs paid by plaintiffs of the arbitration between them and the George Matthews Company, which sum they sought to recover by reason of an agreement of indemnity entered into by defendants with plaintiffs. The trial judge held that it was not by reason of the exercise by defendants of any of its powers, or by improper conduct of defendants, that the injury was caused to the lands of the George Matthews Company. Held, that the company were exercising powers under the Street Railway Act, and not as agent, and must indemnify the corporation. Appeal allowed with costs.