

bidden by sub-sec. 6. As at present advised, however, I do not think that sub-sec. 6 applies to any by-law which has not in fact received the majority contemplated by the statute; and I think that there would be nothing to prevent a repeal of a by-law which had not received the proper majority, useless as that repeal would seem to be.

Even if the council are forbidden to repeal a by-law passed without jurisdiction, I cannot see that the by-law could therefore be considered of any avail.

An objection was also taken that a number of voters, instead of handing their ballots to the deputy returning officer for him to put them in the ballot box, themselves placed them in the ballot box, and sec. 170 is appealed to. This provides that "no person who has received a ballot paper from the deputy returning officer shall take the same out of the polling place; and any person having so received a ballot paper, who leaves the polling place without first delivering the same to the deputy returning officer in the manner prescribed, shall thereby forfeit his right to vote; and the deputy returning officer shall make an entry in the poll book in the column 'Remarks' to the effect that such person received a ballot paper, but took the same out of the polling place or returned the same declining to vote, as the case may be." Had the section stopped with the words "forfeit his right to vote," the argument would have had some weight; but the remainder of the section shews that what was being provided against was the voter going away without voting, or declining to vote. It never could have been intended that a voter who, upon the direction or with the approval of the deputy returning officer, himself in good faith placed the ballot in the box, instead of handing it to the deputy returning officer, thereby should disenfranchise himself. Section 204 covers this defect.

Taking now the other objections in the order of the notice of motion.

Objection 2. The statute, sec. 338 (2), provides for publishing notice of the by-law for 3 successive weeks, and 338 (1) that the day "fixed for taking the votes shall not be less than 3 . . . weeks after the first publication of the proposed by-law." The first publication was 12th December, 1906, and the day of polling 7th January, 1907. It will be seen that 3 weeks elapsed from the first publication before the day of polling, if the word "week" be used in the ordi-