

2. Can an owner of lot assess a friend on a part of his lot to give him a right of vote?

1. No.
2. No.

#### A Toll-Road.

155—M. T. B.—A road built by the government, on which toll was collected, was afterwards sold to a company. On that road there are two towns. East of one town there is, say four and a-half miles of toll-road, then there is a break of two miles through the town, then toll-road for, say seven miles, then another break for two miles through the other town, then a trifle under three miles of toll-road, west of the town, as per diagram:

*toll-gate	Town	toll-gate	toll-gate*	Town	*toll-gate
4 3/4 miles of road.	2 miles	7 miles of road	2 miles	Less than 3 miles of road.	

The whole length of the road is a trifle under fourteen miles.

1. How many gates can they have on that road, that is, pay gates, and how much can they charge at each gate?

2. Starting at, say the east end of the road, can they treat it as a continuous road for the fourteen miles which they own, or must they treat each piece as a separate road, that is, for the purpose of imposing toll and placing gates?

3. In the case of a company owning a road, and a person wishes to proceed against them for taking too much toll, who is the party that can be punished before the magistrate? Can the company, or must it be the gatekeeper?

1. Section 59 of the General Road Companies' Act, R. S. O., 1897, chapter 193, provides that, "Every such company (that is, road company) may erect such number of *toll-gates*, check-gates and side-bars, in, along or across the said roads, etc., and fix, regulate and collect such tolls, not exceeding the rates hereinbefore provided, (see section 54) to be collected at each gate, check-gate or sidebar, as they deem expedient, and may from time to time, alter the tolls, toll-gates, etc.,"

2. The three sections of the road cannot be regarded as a continuous road, since two towns intervene, but must be regarded as three separate roads.

3. "The renter or collector of tolls at any gate on any road," is the proper person to proceed against. See section 123 of the Act.

#### Rights of Chairman of Rural School Trustees.

156—L. S. T. 1. Has the chairman of board of rural school trustees the privilege of moving or seconding a resolution?

2. Can he vote on any resolution that comes before the board, whether it is a tie vote or not?

3. If he refuses to vote when yeas and nays are called, how should such refusal be recorded? Would among the nays be proper?

1. Yes.
2. Yes.

3. There is no provision in the Public Schools Act requiring a record of the "yeas" and "nays" to be kept.

#### Interest on Debentures.

157—O. J. W. If A purchased \$4,000 (this is estimate and interest) worth of debentures, which are to be redeemed one each year for five years, that is, in equal payments, now the law requires that the interest upon each individual assessment shall be in equal payments for the five years. Carrying that rule out, how does A receive the full interest upon the money advanced the one year? It seems to me that

when the first debenture was redeemed, A would not be getting his full interest, and when the last one was taken up, A would then be receiving interest he should have got when the first one was paid.

You have not furnished us with sufficient information to enable us to answer this question. We should have a copy of the figures as contained in the by-law. If the calculation was properly made the purchaser of the debentures would be receiving full interest on the portion of his principal money invested in the debentures, and remaining unpaid at the end of each year, at the rate mentioned in the by-law.

#### Change of School Site.

158 AN OLD SUBSCRIBER.—A new school-house has to be built in school section No. 5, to replace the old school-house. A dispute arose amongst the ratepayers and trustees as to whether the new school-house should be built on the site of the old one, or a new site purchased half a mile to the south. The trustees and minority of the ratepayers were in favor of building on the old site. The majority of the ratepayers were in favor of purchasing a new site; the matter was finally left to arbitration, each party choosing a man, the Public School Inspector being the third person to the arbitration. The arbitration was held at the school-house, the ratepayers having had due notice. Evidence was given by both parties. After due deliberation the award was given and published, the finding of, which was, that the new schoolhouse should be built upon the site of the old one, and that this arbitration shall be binding for five years from the date of the publication of the award. This was about two years ago. The board of trustees has been changed, only one of the old members remaining on the board, nothing has been done in the way of building since the arbitration. The trustees came before the township council, at its meeting on the 4th day of February, 1901, demanding the council to pass a by-law to raise by debentures the sum of \$1,000, payable in ten equal annual instalments, for the purpose of purchasing a new school site, and for school purposes in said section. At the same time, a petition was presented, signed by thirty-four ratepayers of the section, praying the council not to pass any such by-law as asked for by the trustees, as the matter had been finally settled by arbitration two years ago, and that the same was binding for five years from that time.

1. Would the council be justified in passing the by-law asked for under the circumstances?

2. Would the trustees be justified in building on a new site and ignoring the arbitration?

3. If they build on this new site, do they run the risk of having to pay for it themselves?

4. What would be the best way of settling the matter finally? Could the whole matter be submitted to the county judge for his decision?

1. Assuming that in making the award, the provisions of section 31 were strictly observed and followed, the award is binding upon all parties concerned for at least five years from the date thereof. See latter part of sub-section 3 of section 31. Sub-section 1 of section 70 of the Act, provides, that the municipal council of a township shall pass by-laws, on the application of any board of rural school trustees, for the issue of debentures for the purchase of a school site, "provided always the proposal for such loan has been submitted, by the trustees, to and sanctioned at a special meeting of the ratepayers of the section, called for the purpose." It is the duty of the council to see that this provision has been

observed by the trustees, before passing the by-law. In this case the ratepayers have not sanctioned the purchase of a new school site, nor have the arbitrators so awarded, therefore the council has no power to pass the by law.

2. No.

3. The trustees cannot bind the school section by any contract they may make contrary to the powers conferred on them by the statute, and they can be restrained by injunction proceedings, from taking any steps in the matter, other than authorized by law.

4. Section 31 provides the mode of settling questions of this kind. If the requirements of this section are not observed and carried out by the parties whose duty it is to do so, the courts, on application made to them will set matters right. The county judge has no jurisdiction over the matter, under the Schools Act.

#### Election of Warden.

159—D. J.—Jones is nominated for warden, so is Brown. The vote stands 4 for Jones, 4 against; Brown receives 4, and 4 nays. Does that constitute one ballot or two? Would the one winning the draw be entitled to two votes next year in the event of it again being a tie, without going through the same process again? When should decision be given on second or third vote?

If, during the first day of the election of warden, the tie is not broken, the voting must be proceeded with on the second day. If after two votes are taken no choice is made, the member, who at the last preceding election received the higher number of votes, in the division having the largest equalized assessment, shall have two votes. Where the two county councillors from this division have an equal number of votes, or where they have been elected by acclamation, the clerk shall in open council draw lots to ascertain which one of the two shall give the casting vote. See section 263 of the Municipal Act. Since the passing of section 19, sub-section 1 of the Municipal Amendment Act, 1899, a warden cannot be elected by ballot. The vote you mention constitutes only one vote. A vote consists of each separate and distinct submission of the names of the candidates to be voted upon by the councillors. The process of drawing lots mentioned in clause (b) of section 263 of the Municipal Act should be gone through at each election of a warden, if the circumstances of the case require it.

#### Tax Sale in Newly Incorporated Town in Districts.

160—W. R.—1. If a treasurer of a town in Muskoka and Parry Sound sells lands for arrears of taxes this year, 1901, can he legally include in the sale the taxes for 1897, 1896 and 1895?

2. Is there a date set by law (after incorporation) for the first sale by the town treasurer? If so, when?

3. Or must the treasurer wait until he receives the mayor's warrant?

In explanation of the above, I may say that the incorporation into a town took place on Jan. 1st, 1901, and on Jan. 22nd I received a list of arrears of taxes upon the sheriff's books, with instructions to enter them in my books. I find