

or repair it is not in itself evidence that it is a bridge vested as a provincial work in Her Majesty. We advise you to have some person go to the office of the commissioner of public works and ascertain whether this bridge is under the control of the department under the above act, and if you find that it is not you had better effect a settlement unless the municipality has some other good defence.

**Tenant's Covenant to Pay Taxes—Time for Filing Resignations by Candidates.**

**31.—SUBSCRIBER.**—1. The trustees of S. S. No. A, during the summer holidays expended about \$300 in repairing, painting and putting new seats in school house, consequently the school rate in said section was more than double of what it usually was other years. Do tenants, under the ordinary form of lease which binds them to pay taxes, have to pay this extra tax?

2. In month of April the school house in section B was destroyed by fire, the same being insured for about \$1,000. The trustees went to work and built a new school which cost about \$1,500. The ratepayers decided to pay off this extra \$500 in two years and the trustees raised the money by note. Do tenants have to pay this extra tax?

3. Municipal nominations being on Dec. 31st this year, is the following day (New Year's) a public holiday, if so will any candidates who wish to resign have till twelve o'clock noon of Wednesday, Jan 2nd to do so?

1. By the Act respecting short forms of leases (R. S. O., 1897, chap. 125,) schedule B, the covenant "to pay taxes" is defined to mean "and also will pay all taxes, rates, duties and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged, upon the said demised premises, or upon the said lessor or on account thereof, except municipal taxes for local improvements or works, assessed upon the property thereby." Therefore, we are of opinion that the tenants are liable for the extra tax.

2. Yes, for the same reason as above.

3. Yes. Sub-section 2, of section 129, of The Municipal Act, provides that "at the nomination meeting, or at any time before nine o'clock, p. m., on the following day, or when such last-named day is a public holiday, then before twelve o'clock noon of the succeeding day, any persons proposed for one or more offices, may resign, etc."

**Council Cannot Remit These Taxes—Time for Petition to Court of Revision Under Section 74, Assessment Act.**

**32.—W. P.—I.** A ratepayer owns a saw mill, which the assessor assessed. The council have, for several years past, on the application of the owner and to encourage the industry, reduced the assessment. This year no application was made to the council for a reduction of assessment, consequently taxes were levied on the full amount. The owner of the mill now applies for a remission of taxes. Can the council lawfully remit them or any part thereof?

2. Also give us your interpretation of the sentence of section 67, page 772, Municipal Manual, 1889, "The court shall also before or after the 1st day of July." How long before or how long after?

1. We are of opinion that the council has no right to remit these taxes or any portion of them, unless the circumstances are such as to bring the case within the provisions of section 74 of the Assessment

Act, sub-section 1, that is, "That the tenement assessed remained vacant for three months in the year for which the assessment was made, or the person petitioning declares himself, from sickness or extreme poverty unable to pay the taxes or who, by reason of any gross and manifest error in the roll as finally passed by the court, has been overcharged more than 25% on the sum he ought to be charged.

2. Section 67 of R. S. O., 1897, now section 74 of R. S. O., 1897, provides, "The court shall also before or after the 1st day of July, and with or without notice, receive and decide upon the petition from any person assessed for a tenement which has remained vacant during more than three months in the year for which the assessment has been made, etc." Under this section we are of the opinion that a person who can show that his premises have remained vacant for any three months of the year, has the right to petition the court for a reduction of taxes. We cannot see why a person who can show that his premises were vacant during the last three months of the year has not as good a right to petition the court as the man whose premises were vacant the last three months but one of the year.

**Farmers' Sons' Statute Labor.**

**33.—C. W.—**Under question 423 (November) you say that farmers' sons, who are assessed jointly with their fathers, are not chargeable with statute labor. According to the Assessment Act, section 14, all farmers' sons may be assessed and rated as joint owners. Will you kindly state what farmers' sons (if any) can be charged with statute labor?

If a farmer's son is not rated and assessed as a joint owner, as provided in section 14 of the Assessment Act, but is assessed simply as a farmer's son, that is, if his name is on the roll separately with the letters "F. S." and "M. F." placed after it in column 4 of the roll, he is liable to perform one day's statute labor. See section 106 of the Assessment Act.

**Time for Filing Resignation of Candidates for County Councillor, 1900.**

**34.—E. H.—**Will you kindly let me know your opinion as to when the time for receiving resignations of those nominated for the office of county council, expires. In reading sections 129 and 135, of the Municipal Act, there seems to be a difference which I cannot reconcile.

We are of opinion that the candidates nominated for the office of county councillor on Monday, the 24th of December, have until twelve o'clock on the following Wednesday night to file resignations. Sub-section 17, of section 8, of chap. 1, (R. S. O., 1887,) provides that "If the time limited by any act for any proceedings, or for the doing of anything under its provisions, expires or falls upon a holiday, the time so limited shall extend to, and such thing may be done on the day next following, which is not a holiday." Sub-section 16 provides that the term "holiday," when used in the act, shall include Christmas Day. The amendment made by section 10, of The Municipal Amendment

Act, 1899, (chap. 28,) to section 129, does not apply to section 135. The legislature seems to have gone further than was necessary, in providing in section 129 that, if the day after nomination day is a holiday, the resignations could be filed at any time before twelve o'clock noon, on the following day, unless the intention was to limit the operation of the above section of chap. 1 to twelve o'clock, noon, instead of MIDNIGHT of such following day.

**Ballot in Towns of Less Than 5,000—Which Candidates for Alderman Should be Declared Elected.**

**35.—T. J. T.—**Referring to chapter 23, section 71a, sub-section 1, 61 Victoria, reads: "The council of every town, etc., shall be elected by a general vote." Is this clause effected by amendments chapter 26, section 140 and 158 (page 99, 62 Victoria)? I am a little in doubt how to prepare my ballot-papers for the coming municipal election and I am mailing per this post a copy of our voters' list and will thank you for information such as will assure me that I am proceeding in right lines. To put the matter in another form, do the names of all the candidates for the council appear on one ballot and after summing up the votes in the three wards or sub-divisions into which our town is divided, the six persons having the largest number of votes are the successful candidates?

Your town being one having less than five thousand inhabitants, the councillors will be elected by general vote. See section 71a of the Municipal Act, added to the Act by section 2 of the Municipal Amendment Act, 1898. By sub-section 2, of section 140, as re enacted by section 11, of the Municipal Amendment Act, 1899, in cases of towns in which the aldermen or councillors are elected by general vote, one kind or set of ballots shall be prepared for all the wards or polling sub-divisions, containing the names of all the candidates for mayor and the names of the candidates for aldermen or councillors, as the case may be. This sub-section applies to your town, the six aldermen or councillors, as the case may be, who obtain the highest number of votes throughout the whole town are the candidates who should ultimately be declared elected.

**Last Day for the Payment of Taxes to Avoid Percentage Falling on Sunday.**

**36.—A. R.—**Our council passed a by-law a few years ago, charging two per cent. on all taxes not paid on or before the 16th day of December, in any year. This year the 16th of December is on Sunday. If the taxes are paid on Monday the 17th, can the taxpayer be made to pay the two per cent.

Yes. Sub-section 17 of section 8, chapter 1, R. S. O., 1897, provides, "If the time limited by an Act for any proceeding or for the doing of anything under its provisions, expires or falls upon a holiday, the time so limited shall extend to, and such thing may be done on the day next following which is not a holiday." This provision does not, however, apply to this case because it is the by-law itself and not any Act of the legislature which fixes the final day for the payment of the taxes so as to escape the penalty of two per cent. imposed.