

QUESTION DRAWER.

Subscribers are entitled to answers to all questions submitted, if they pertain to Municipal matters. It is particularly requested that all facts and circumstances of each case submitted for an opinion should be stated as clearly and explicitly as possible. Unless this request is complied with it is impossible to give adequate advice.

Questions to insure insertion in the following issue of paper should be received at office of publication on or before the 20th of the month.

Communications requiring immediate attention will be answered free by post, on receipt of a stamped addressed envelope. All questions answered will be published, unless \$1 is enclosed with request for private reply.

Possession of Unopened Road Allowance.

145.—H. G. G.—Some years ago a petition was presented to the Municipal Council asking that a road be opened in lieu of an impracticable side road. One of the petitioners whom we will call A placed under the petition after said petition had been signed by himself and others, an offer signed by himself only offering to give land for said road in exchange for a useless piece of concession line. Road petitioned for has been surveyed and legalized. At time of surveying said road it was found that instead of being on the shore of lake, the concession line claimed was considerably inland, leaving part of a lot belonging to a party whom we will call B south of concession line.

A claims deed of whole concession line under his offer and section 551, sub-section 1 of Municipal Act and also under section 552 said Act, and has conveyed to another. B claims half of concession under section 551, sub-section 2.

1. Can the council convey half of concession line to each party?
2. Has A the right to convey, not having deed from council?
3. Supposing an action at law, can the council have any bond to secure themselves from loss, both parties A and B being poor men, and in case of either losing suit the council could get nothing from them. (Both parties threaten action and are backed by their separate lawyers.)

As we understand the facts of this case, the council has taken A's lands for an original allowance for road upon which A's land borders.

1. If that is the case, we say that it is the duty of the council to convey the road allowance, as it agreed, to A, and not to convey one-half to B.
2. No. A has no legal title until he obtains a conveyance from the council.
3. No. The council cannot compel either party to furnish any bond as security.

Collectors Seizure—Portable Oven—Manufacturers Lien.

146.—J. M.—A and B build a store and bakehouse, and purchase a baker's oven (portable) and carry on the trade of public bakers. The business not paying they are obliged to mortgage the property, and afterwards both leave the County.

The property is vacant but the baker's oven is still left on the premises, the builders of the oven having a lien on the same. Can our collector legally levy on the same for taxes? The mortgage has not yet been foreclosed.

Section 6 of the Assessment Act of 1896 says: "In case of distress for the

non-payment of taxes where the owner or person assessed is not in possession, the goods and chattels on the premises not belonging to the person liable for the taxes shall not be subject to seizure," etc. The persons assessed are not in possession, but though you say that the builders have a lien it is very probable that they have more than that; they very likely have a contract by which no property has passed to A and B, and if that is so the interest of A and B only can be seized under another part of section 6, which we have not set forth in full. If, however, the property passed from the builders to A and B then the oven may be seized and sold to satisfy the full amount of the taxes regardless of any supposed lien of the builders. Before seizing you ought to satisfy yourself whether the property in the oven is still in the builders or not.

A Reeve is a Justice of the Peace.

147.—T. H. W.—Kindly inform me whether the reeve of a township can by virtue of his office legally take affidavits, act as Justice of the Peace, and perform such other duties as are usually done by an ordinary magistrate; or how does the reeve's power extend in such matters?

Yes, section 415, Consolidated Municipal Act, 1892, provides: "The head of every council, and the reeve of every town, township and incorporated village shall *ex-officio*, be justices of the peace for the whole county or union of counties in which their respective municipalities lie, etc." This act declares these persons to be, and they are justices of the peace during their term of office.

Assessment of Bishop's Stipend and Residence.

148.—B.—1. Is a bishop's salary or stipend, or a minister's, exempt from taxation?

2. Are bishop's or minister's residences exempt?

1. Yes, to the extent of \$700, but the excess above \$700 is subject to taxation.
2. No.

Payment of Selectors of Jurors.

149.—E. H.—At the last meeting of our council they moved a resolution that I write you with reference to the fee that is paid the reeve, clerk and assessor for selecting jurors. The fee that has been paid in the past was \$4 each. The council want to know if there is a fee set by law and what amount, if any; also the deputy-returning officers have always been paid \$4. The council want to know if they have power to change the fee, and if so, has it to be by by-law or can it be done by resolution?

In regard to the fees to which the reeve, clerk and assessor are entitled as selectors of jurors, the law does not provide any stated fee but only such sum as is authorized by the council. We would advise that the fee which the council considers proper, be fixed by by-law. See section 159, cap. 61, R. S. O., 1897. The fees payable to deputy-returning officers appears to be a matter for the treasurer of the municipality and not for the council. See section 206, cap. 223, R. S. O., 1897, which provides that the treasurer shall pay the clerk all reasonable

fees, allowances for services rendered under the act. If the treasurer considers the fees, allowances claimed unreasonable he ought not to pay them.

Farmers' Sons—Joint Owners.

150.—H. C. G.—Our assessor has always, by request, assessed young men, farmers' sons jointly with their fathers as if partners, but on the same assessment. It is claimed, as they are not partners, they should be assessed as farmers' sons. If partners, firm should be registered. Is the assessor right?

The assessor is right, the Municipal Act provides: "If the father is living, and either the father or the mother is the owner, the son or sons may be entered, rated and assessed in respect of the farm, jointly with the father, and as if such father and son or sons were actually and bona fide joint owners thereof."

Organization of Councils.

151.—J. D. N.—Is the business of a council legal by them signing their declaration of office, or have they got to be sworn in?

As soon as the members of the council have made the declaration of office and property qualification required by the Municipal Act, they are entitled to organize and transact the business of the municipality without any further ceremony.

Seizures for Taxes.

152.—J. B.—1. Are farm implements exempt from seizure when owned by party assessed as owner and occupier of land?

2. Is a buggy being used by said occupier for a year or more and found on the premises, is it in his possession and liable to seizure, although said buggy is not paid for? What constitutes possession?

3. A party whose name is on the roll as owner but lives in an adjoining township, is he a non-resident, and are his goods in such adjoining place exempt from seizure?

1. Such property as this is not exempt when it is owned by the person who is actually assessed therefor and whose name also appears upon the collectors' roll for the year as liable therefor.

2. Yes, unless the title of the buggy has not passed, as is frequently the case, where the seller provides that no title or property shall pass to the purchaser until the article is fully paid for. In the latter case only the interests of the buyer can be seized.

3. Unless this party requested his name to be entered on the assessment roll his lands ought to have been assessed upon the non-resident roll. If he requests that his name should be entered upon the assessment roll he is in the same position as any resident whose name is on the roll and his goods are distrainable in any part of the county. In the case of non-residents who have not requested their names to be entered on the assessment roll only such property as is found on the lands can be seized.

Assessor and Collector.

153.—CLERK—The one person being appointed by the Municipal Council as assessor and collector in the same place for the same year, what effect would it have in the collecting of taxes? Could those assessed refuse to