

## QUESTION DRAWER.

SUBSCRIBERS only are entitled to opinions through the paper on all questions submitted if they pertain to municipal matters. Write each question on a separate paper on one side only. When submitting questions state as briefly as possible all the facts, as many received do not contain sufficient information to enable us to give a satisfactory answer.—Ed.

R.—Has a returning officer or deputy the power to erase or draw a line through the name of a candidate, on the ballot paper before giving it to a voter.

Section 117 of the Consolidated Municipal Act, 1892, provides that, "at the nomination meeting or on the following day any person proposed for one or more offices may resign, or elect for which office he is to remain nominated." If the candidate does not resign in the manner prescribed by the latter part of the above section, within the time therein limited, his name must go on the ballot paper and must remain there throughout the election, whether the candidate is really desirous of running for the office or not. A returning officer or his deputy has no right to meddle with a ballot in the way you mentioned.

J. B. N. P.—The arrears of taxes were not returned to county treasurer on a certain piece of land by the collector, having made his report too late to be accepted by said treasurer for the year 1890. Now the same piece of land was assessed non-resident in the years 1891 and 1892. In the year 1893 it was assessed to an occupant who paid the arrears of the year 1890, but the arrears of 1891 and 1892 were not returned and consequently not charged with his taxes of 1893. In 1894 the county treasurer sent the list and the sections 140, 141, 142, 143 of the Municipal Act of 1892 was followed in respect of the arrears of 1891 and 1892 the same party who occupied the property in 1893 was again assessed as occupant in 1894 and according to the above sections the arrears of 1891 and 1892 were charged on the collector's roll of 1894 to the said occupant who has left the property, but still resides in the municipality. The present occupant has no property to distrain under the exemption of the Division Court Act. The collector for 1894's roll has seized the goods and chattels of the party assessed as occupant for 1894, being still in the county, said occupant paid the taxes of 1894 but not the arrears of 1891 and 1892.

Now please tell:

1. Had the collector the right to seize the chattels and goods of the party assessed as occupant?
2. Has the said occupant the right to bring an action of replevin for the goods seized?
3. Who is the party liable to pay the said arrears of 1891 and 1892?

We will premise our answers to our correspondent's questions by quoting Mr. Harrison's note (c) to section 143 of the Assessment Act, on page 821 of the 5th edition of his Manual. It is as follows: "The arrears may be collected in the same manner and subject to the same conditions as all other taxes upon the collector's roll. It is provided by section 124, that the collector may, after demand, levy the taxes with costs by distress of the goods and chattels of the person *who ought to pay the same*, or of any goods or chattels in his possession, wherever the same may be found within the county, etc., and by section 126 in the case of non-residents who have required their names to be entered on the roll, the collector may make distress of any goods and chattels which he may find on the land

There is no doubt, therefore, that goods and chattels *on the land*, as in the case of non-resident lands, would be liable. But the difficulty of restraining the operation of the section to goods and chattels on the lands, as in the case of non-residents, is that that it is only one kind of tax, and the act says taxes shall be collected in the same manner and *subject to the same conditions as all other taxes entered upon the roll*. Now, upon the roll are the proper taxes of the party charged, which, under section 124, may be levied of any goods and chattels in his possession, *wherever the same may be found in the county*. The Court of Queen's Bench, however, have placed upon similar words, in the statute, 27 Vic., chap. 19, from which this section is taken, the narrow construction of restricting the remedy to goods and chattels *ON THE LAND* as being more consistent with reason than the broader construction, which would work great hardships and do great injustice in individual cases, and this construction is apparently sanctioned by the Legislature in the following section (144), which provides what the collector shall do: "If there shall not be sufficient distress upon any of the occupied lands in the preceding section named, etc." We give our answers in view of the above.

1. No.

2. Yes.

3. The owner of the land and the occupant for the time being. If sufficient distress cannot be found on the land, the premises can be sold in the regular way to realize the amount of the arrears.

A.—Section 180 of the Consolidated Assessment Act of 1892, reads: "The owner of any land which may hereafter be sold for non-payment of arrears of taxes or his heirs, executors, administrators or assigns or any other person, may at any time within one year from the day of a sale redeem the estate sold."

Now what I want to know is, can any other person other than the original owner or his agents or heirs, etc.

Yes—See sec. 180 of the Consolidated Assessment Act 1892 and page 846 of the 5th edition of Mr. Harrison's Manual note (R) in which Mr. Harrison says that the right to redeem is given to the owner of the land or his heirs, executors or administrators, or to *any other person* whether claiming title or not.

TP. REEVE.—Several years ago the council of our township built a bridge over a river on a leading road in our municipality and filled with earth about 8 feet deep at each end of the bridge for approaches. Farmer B has land lying partly behind the river and so situated that the only place for egress from his farm is opposite the approach, at one end of the bridge he built an approach to the approach of the bridge for his way out. This year the council had to build a new bridge, the engineer advised to build it 16 inches higher than the old one, consequently the approaches had to be raised 16 inches higher, who has to raise farmer B's approach, the council or himself?

We are of opinion that farmer B. should build the approach from his farm to the bridge approach.

F. J. C.—A trader comes to this town who is not entered upon the assessment roll in respect of income or personal property, and rents certain

premises and opens up a stock and commences selling, under a by-law he pays a license fee of \$100 to the corporation. The law provides that should such person continue long enough to be assessed and pay taxes, his license money shall be used to pay his taxes.

Now the question is "Is such person entitled to be credited with any more than his taxes upon personal property and income?" The premises which he occupies are also assessed to him, is he entitled to have the taxes for the real estate occupied by him, paid from his license fee? Some claim that the taxes on income and personal property can be only considered, while others claim that his entire taxes including real estate, income and personal property must be considered. The premises are also assessed for local improvements. How about these taxes?

We assume that the council have passed a by-law pursuant to sub-section 9a of section 489 of the Consolidated Municipal Act 1892. We are of opinion that only the taxes on "income and personal property" should be considered. If the local improvements referred to are such as are mentioned in section 612 of the said act sub-section 2, the real estate only should be taken into consideration.

CLERK—Are the fees and other charges of the clerk of a municipality, allowed him by the by-law of the municipality, under the Ditches and Water Courses Act 1894, to be charged to the lands or owners of the lands affected, or are the clerk's allowances under the said act to be paid him out of the funds of the municipality as the clerk's ordinary salary is?

A reference to form G. shows that the engineer in making his award is required to give fees, and other charges, including clerk's fees, in detail. In accordance with section 27 of the act, clerk's fees would be paid and collected the same as the fees of the engineer.

INQUIRER—1. Some years ago the township council gave a person permission to build a store and a warehouse on a street bordering upon the river. The said buildings are close to a fine swing bridge which was built by the government and is government property. Now if the aforesaid buildings were to cause the destruction of the bridge by fire or otherwise, would the township be liable for the loss of said bridge?

2. At the nomination of candidates for reeve and councillors, should the meeting be kept open for one hour only, or one hour from the time the last candidate was nominated?

1. If the buildings mentioned by our correspondent occupied their present position when the bridge was built, we think no liability will attach to the council in the event referred to, but if they have been erected since the bridge was built, without the knowledge or consent of the government, then the township or perhaps the individual members of the council granting the authority for the erection of the buildings in all probability would be held liable.

2. One hour only.

TOWN CLERK—Can our town council pass a by-law limiting licenses in our town to one hotel license, and one shop license? Our population is 1157.

It seems to us quite clear that your council can legally pass a by-law under the authority of secs. 20 and 32 of the Liquor License Act, limiting the number of taverns and shop licenses to be granted to one in each case.

Section 18 of the said act prescribes the limit beyond which the council cannot go as to tavern licenses.