

returned to the Clerk, as they had a right to do under the Act, and if they were then dissatisfied with their assessment, should have appealed against it in the regular way. They cannot now escape payment of the taxes on their assessment. (See section 72 of the Assessment Act.)

Seizure of Fanning Mill Covered by Manufacturer's Lien.

34—C. E. W.—The tax collector seized and sold a fanning mill for taxes for the year 1891, which was covered with a manufacturer's lien. Was it legal for him to do so. The company forbid him selling it. Can the company claim damages from him? Can anything that is covered with a manufacturer's lien be sold for taxes?

The Collector can seize and sell only the *interest* of the person liable for the taxes on this fanning mill. Sub-section 2 of section 135 of the Assessment Act provides that Collectors can levy taxes with costs by distress "upon the INTEREST of the person assessed in any goods on the premises, including his interest in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition." The Collector, to escape liability for damages, should release the fanning mill from seizure, if he is satisfied that the manufacturers' lien for unpaid purchase money is *bona fide*, or sell it, subject to the lien.

Qualification of School Trustees.—Payment of Rent of Polling Booths at Provincial Elections and Voting on the Liquor Act, 1902.

35.—J. H. R.—1. Is a public school trustee of an incorporated village disqualified from acting as councillor of said village?

2. At the last Provincial election there were two polling places in an incorporated village; one in the town hall and the other in a room rented for that purpose by the returning officer. After the election the returning officer sent the account \$4.00 to the council requesting payment. Is the council legally required to pay the account? At municipal elections there is only one polling place in this village.

3. Is the Provincial Government or the council of an incorporated village required to pay the rent for polling places used on the vote taken on the Liquor License Act of 1902, on December 4th.

1. Sub-section 1 of section 80, of the Municipal Act, as amended by section 5 of the Municipal Amendment Act, 1902 (chapter 29, Ontario Statutes, 1902), provides that "no member of a School Board for which rates are levied" shall be qualified to be a member of the Council of ANY municipal corporation. A School Board for an incorporated village is one for which rates are levied, and therefore a member of such Board is now disqualified for membership in the village council.

2. Section 203 of the Ontario Election Act (R. S. O., 1897, chapter 9), provides that "the fees in schedule B to this Act, in respect of the matters therein contained, and no others shall be allowed to the several officers therein mentioned respectively, for the services and disbursements in the said schedule specified." Item 18 of this schedule is as

follows: "For each *polling booth*, actual cost not exceeding four dollars, to be paid by the *Township Treasurer on the order of the Deputy Returning Officer*, unless the township council provides suitable polling places at their own expense." It is to be observed that item 18 applies only to townships, and items 19, 20 and 21 to cities and towns. It is a question, therefore, whether the statute would be held to apply, in this regard, to incorporated villages. It is, however, evidently the intention of the Act that accounts of all polling booths should be paid by the treasurers of the local municipalities in which they are respectively located, and we think that the actual cost of the booth, not exceeding the amount payable by other municipalities, should be paid by the village.

3. The charges for rent of polling booths in your village (other than the Town Hall) used on the occasion of the taking of the Referendum vote on the 4th December inst., must be paid by the Treasurer of your village, on the order of the Deputy Returning Officer. Section 92 of the Liquor Act, 1902 (chapter 33, Ontario Statutes, 1902) provides that "the fees in schedule B to this Act mentioned, in respect of the several matters therein contained, shall be allowed to the several officers therein mentioned respectively, for the services and disbursements in the said schedule specified." Item No. 11 of this schedule is as follows: "For each polling booth, actual cost not exceeding four dollars, to be paid by the city, town, VILLAGE or Township Treasurer (as the case may be) on the order of the Deputy Returning Officer, unless the Municipal Council provides suitable polling places at their own expense."

Number of Municipalities in Which the Office of Clerk and Treasurer is Held by the Same Person.

36—W. H. M—How many municipalities are there in the Province in which the positions of Clerk and Treasurer are held by the one person?

The position of Clerk and Treasurer is held by one person in each of seventy-six townships and forty-five other municipalities.

Qualification of Members of Public and Separate School Boards—Qualification of Municipal Clerk as Member of School Board.

37—A. B.—1. Are members of Public and Separate School Boards in incorporated villages disqualified from acting as Reeve or Councillor of such village, there being only one public and separate school section in the village?

2. Can Municipal Clerk act as member of Public School Board in incorporated village of which he is the Clerk?

1. Members of Public and Separate School Boards in incorporated villages are "members of School Boards for which rates are levied," and as such are disqualified from membership in the Municipal Council. (See section 5 of chapter 29, Ontario Statutes, 1902, and sub-section 1 of section 80 of the Municipal Act.)

2. The Clerk of an incorporated village is not in terms disqualified from acting as a member of the School Board of his municipality (see sub-section 2 of section 56 of the Public Schools Act, 1901); but we are of opinion that the duties of the two offices are incompatible, and cannot both be held by the Clerk at the same time.

Procedure on Nomination Day.

38—G. M. D.—Kindly inform me if our nominations have been made according to statute:

1. Can a candidate be nominated by a person who has no vote in the County Council division for which the candidate was nominated?

2. Two nomination papers were signed by persons not present at the nomination meeting. Is it necessary for them to be present to make nominations legal?

3. What procedure must be taken to have nomination for such candidate disposed of?

1. No. The nominator must be an elector of the division for which the candidate is proposed.

2. Yes.

3. The nominating officer has no alternative other than to receive these nominations. He has no authority to constitute himself a judge to say whether a candidate has been legally nominated or not. This is a question that should be left for the decision of the judge before whom proceedings may be taken to unseat the candidate whose nomination is alleged to be illegal.

Voters' Qualification.

39—J. H.—1. R. S. is on the assessment roll and legally entitled to a municipal vote. By mistake his name was omitted from voters' list. Can he vote at the ensuing municipal elections?

2. The Imperial R. V. Co. are assessed, but not on voters' list. Can the manager of the company, whose name is neither on assessment roll nor voters' list, vote as representing company at municipal election?

1 and 2. Neither of these persons has any right to vote at the ensuing municipal elections. Section 89 of the Municipal Act provides that "Except in the case of a new municipality, which has no assessment roll, no person shall be entitled to vote at any election, unless he is one of the persons named in the proper list of voters, etc."

Disposition of Levy Made by Mistake.

40—W. D.—1. In our township, by a mistake we have collected \$600 in taxes for county purposes more than the county called for. Could any rate-payers legally refuse to pay the extra rate?

2. Will it be legal to pay back the extra rate to parties that have sold their properties and are leaving the township?

1. Yes.

2. Yes, provided they have paid their taxes, including their respective shares of the illegal levy.

Qualification of Councillors.

41—S. W.—Referring to question 488, in the December number of THE WORLD, could the Reeve and Councillor that were appointed