

lawful. But whether he did actually do three days work is a question of fact, and the duty is upon B to show that he did the full amount of work charged against him. We would suggest that B should bring the matter before the council.

2. The council neglected its duty in not requiring A to make the statutory declaration under the Municipal Act, and A ought to have made that declaration before entering upon the duties of his office, but his mission to do so does not appear to render his acts void. Section 267 of the Assessment Act requires every treasurer and collector, before entering in the duties of his office, to enter into a bond to the corporation of the municipality for the faithful performance of his duties, and these officers are also required to enter a statutory declaration before entering upon the duties of their respective offices, but the courts have held that the omission of either does not vacate the appointment unless conditionally made or render the person appointed incompetent to discharge the other duties appertaining to this office.

Taxes on Mill on Rented Ground.

461.—G. G.—I rented three acres of ground to B. Agreement was that I pay taxes for same. B used the same for erecting a saw mill there. B took as partner C. Taxes were paid by me every year till 1894, the last when C had himself assessed for ground and mill. Shortly after C left mill to B, who moved it away two miles in same township. I paid taxes for ground also that year, but I had nothing to do with mill tax which was not paid that year. Sheriff now is going to sell my property for taxes on the whole, the ground falling back to me as soon as mill was taken away.

1. Can the sheriff do this?
2. Who is responsible for mill tax?
3. Can council now seize the mill, C having left the country?

We have no doubt but that the mill was, after its erection upon the land, a part and parcel of the land. It appears to have been so regarded by the assessor because you state that it and the land were assessed together. The building could not have been sold for taxes, separately from the land. If the taxes were not paid and the collector could not find any chattle upon which he could seize for the taxes, his course would be to return them as uncollectable and the land would have to be returned to realize the amount in due course. We have therefore to answer the above questions as follows:

1. Yes, assuming of course, that the various steps required to be taken before lands can be sold for arrears of taxes, were regularly taken.
2. The lands.
3. We do not think so.

Driftwood in Rivers.

462.—SUBSCRIBER.—In the township of Toronto a river known as Boyne river flows across the township from west to east. Part of the owners of the land through which said river flows have removed all timber from the bed of the river preventing to a large extent, the overflow of water from the river banks during freshets, but others have allowed the bed of the stream to remain in its natural state with a lot of timber and driftwood to cause the water to flow from the river and injure the adjoining

lands. In the 3rd, 4th and 5th concessions the river crosses on lot No. 7. A owns west half in the third, which is in its natural state with a lot of driftwood in addition. B owns east half in the 3rd, and west half in the 4th, which he has cleaned of all timber, allowing the water to flow freely. C owns the east half in the 4th, also cleaned of all timber. D owns west half in the 5th, which is in its natural state, with a lot of driftwood in addition. B and C complain that they are injured by A not cleaning the river bed, and C complains he is injured also by D not cleaning his portion as it causes the water to back up on him. The public highway runs between C and D. It may be claimed that the public highway is in some way injured by the water being diverted from its natural course. C wants the council to take action in the matter and compel A and D to clean their portion of the river.

1. Has the Council any right to take action in the matter?
2. Could they compel A and D to clean the river bed?
3. If so, what steps should be taken?
4. If it is not the duty of the council can B or C compel A and D to do so, and what steps should be taken?

Section 619 (1) of The Municipal Act provides "where a river or stream forms a boundary line between two or more municipalities within a county, it shall be the duty of the Council of the county to keep such river or stream free from all accumulation of driftwood or fallen timber now or hereafter accumulated," and a like duty is imposed upon the Councils of counties, cities or separated towns to keep streams free from driftwood. This provision, however, is confined to so much of the stream as is on the by-law. Section 3 of the Drainage Act, which empower the council of a municipality, upon a proper and sufficient petition, to construct drainage works provides for the clearing of obstructions from a creek or watercourse, but without such a petition the council have no power to institute proceedings under the act of its own motion. The law is that no person has the right to obstruct the natural flow of water through a natural watercourse which has well defined banks. This case does not appear to be one of that kind. The driftwood here has no doubt been carried by flood water from different lands, and none of the landowners can be held responsible for the accumulation of driftwood from such a cause as that. We are therefore of the opinion

1. That the Council has no right to take action except in so far as it may be necessary to free streams from driftwood.
2. No.
3. None.
4. No.

Collector and Deputy-Returning Officer.

463.—W. P.—A was appointed collector for 1898. Can A act as Deputy-Returning Officer in January, 1899, still being township collector?

We cannot find any provision in the Municipal Act disqualifying him. Section 80 expressly disqualifies a collector from being a member of the council of any municipal corporation, but a deputy-returning officer is not a member of a municipal council. The declaration of office, which he is required to take, is to be found in section 313 of the Municipal

Act and there is nothing in it to prevent a collector from making such declaration.

No Ward Nominations in Townships.

464.—WARD.—According to amendment to Municipal Act, passed in January, township councils are to be elected by a general vote. Does this mean that, in townships divided into wards, candidates are to be nominated for the office of councillor for each ward as formerly, but that a majority vote of the whole township is necessary for their election?

If there is a by-law in existence, which provides for receiving nominations in each ward, it had better be repealed and a new one passed, fixing one place for receiving nominations for reeve and councillors! Candidates are not to be nominated for each ward as formerly.

No Deputy-Reeves in Townships.

465.—T. J. E.—Are there deputy-reeves to be elected in township councils for the year 1899 as formerly?

No. See our article on "Deputy-Reeves" on page 164 of October number of the WORLD.

Trustee's Order on Township Treasurer.

466.—J. M. M.—A Secretary-Treasurer of School Section No. 3 called on the township treasurer to cash an order, without corporate seal attached to it, for school rates, 1898, coming to his section. The township treasurer considered that corporate seal must be attached to all monies coming to school sections from the township before payment be made. The secretary-treasurer stated that all that was required was his own signature to the order.

1. Does order on the township treasurer for school moneys require the corporate seal attached thereto?
2. Has the secretary-treasurer of a school section power to attach the corporate seal on an order or other document without the special instructions or consent of the Trustee Board?
2. If order only requires secretary-treasurer's name attached thereto, what guarantee does township treasurer hold that said order is *bona fide*, when secretary-treasurer is unknown to him, and township has no proof that he is not a swindler or an impostor? Please state sections in statutes applying to above questions.

1. No.
2. No.

3. If the township treasurer has any doubts as to whether the person applying for school monies is really the treasurer of the school section entitled to the money, he must satisfy his own mind upon the point by proper enquiry. Section 97 of the Public Schools' Act provides, "In the case of rural schools, all monies collected shall be paid to the secretary-treasurer of the section on or before the 15th of December."

Nomination Proceedings—1898.

467.—F. J. C.—1. As nominations for mayor or councillors must be in writing hereafter, is it necessary that the mover and seconder should be present at the nominating meeting?

2. Can the returning-officer receive nomination papers sent in to him by persons (mover and seconder) not present at the nomination meeting?

3. Is it necessary that the person nominated should be present at the nomination meeting?

1. Yes.
2. No.
3. No.