

not appear "in the revised assessment roll for the municipality upon which the Voters' List used at the election was based." Neither did his name appear in the proper part of the Voters' List. The instructions to deputy-returning officers to which you refer, apply to municipalities in districts, subject to the alterations rendered necessary by the provisions of chapter 225, R. S. O., 1897. See section 21 of the Act. The deputy returning officer had no authority to write the voter's name on the ballot.

3. This person had no right to receive a ballot or vote, as he was not on the Voters' list at all.

4. Yes.

5. Yes.

6. This section is for the guidance of clerks in the preparation of the Voters' Lists in their respective municipalities in districts, showing them what persons are qualified to be entered on the list as municipal voters. Only those who are entered in the proper part of the Voters' List to be used at an election have the right to receive a ballot and vote.

Petition for Drainage Works.

181—F. G. J.—I have given you an outline of a proposed ditch. Last fall a petition was circulated to have what I have marked as the "main drain" put through, but there were scarcely enough signers to the petition. Those in favor of the ditch then went to the clerk and got him to fill out a new petition, including lots 10, 11 and 12 in concession 3. All the owners in concession 3, on the "branch drain," signed the new petition, together with those who had signed the old one. Now those who are opposed to the ditch claim that the promoters of the ditch should not have included the branch.

1. Is there anything wrong about including a branch in this way, in order to get the ditch through?

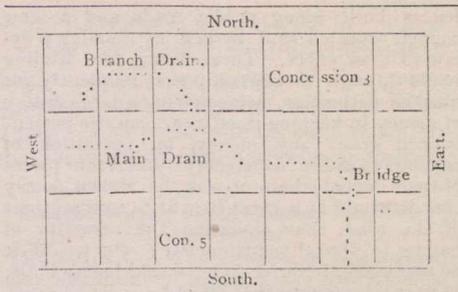
2. Can the opponents of the ditch get up a counter petition, including another branch, and thus hinder the ditch?

3. Just below the bridge, in the road between concessions 4 and 5, the original stream bends back into a small portion of the west half of lot 7 in the 5th, less than a quarter of an acre being affected, but it is valuable as a watering place. Would it be legal to straighten the creek below the bridge, and convey water on to the west half of lot 7 in a pipe or in some other way? If this is legal, would the owner of west half of lot 7 have a right to his name on the petition?

4. Mr. S. dies leaving property (100 acres of land) to be divided equally among his six grandchildren at the death of the mother of said children. A deed of trust is held by two executors, one of whom has since died. The mother and two of her sons are rated upon the last revised assessment roll as joint owners of the property. All the children are of age. One of the sons, whose name is on the roll, has lately sold his share to his brother. In the event of the ditch passing through this farm and no names on the petition, how many names will be counted against the petition for such property? Who would have the right to sign the petition for such property? Section 3, sub-section 1, of The Municipal Drainage Act says "Upon the petition of the majority in number, etc., etc., the council may procure an engineer or Ontario land surveyor to make an examination of the area, etc."

5. Are the council obliged to procure an engineer to make a survey if they do not wish such survey made?

6. Can the council instruct the reeve to sign the petition before the meeting to consider the report of the engineer?



1 and 2. Sub-section 1 of section 3 of chapter 226, R. S. O., 1897, provides that "upon the petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners) as shown by the last revised assessment roll to be the owners of the lands to be benefitted in any described area within any township, etc., to the municipal council thereof for the draining of the area described in the petition by means of drainage work, that is to say the construction of a drain or DRAINS, etc, the council may procure an engineer, etc." The engineer, on his examination of the described area, may find that, in order to carry out the drainage works petitioned for, it will be necessary to construct one or more drains, or a drain with one or more branches, and this he has the legal right to do. It was held in the case of Robertson vs. The Township of N. Easthope that a petition of land owners, under the Drainage Act, for the construction of drainage works must include a majority of all the persons found by the engineer to be benefited by the proposed works, and not merely a majority of the persons mentioned in the petition itself as being benefited. Consequently if the petition presented to the council is signed by a majority of the persons to be benefited in the area described by the construction of the drain or its branches or any of them, the council may procure an engineer, etc., and, if by the engineer's report the petition appears to have been signed by a majority of all persons found by him to be benefited, the council may pass the necessary by-law for the carrying out of the drainage works.

3. In case the engineer, instructed by the council to examine and report on the drainage scheme, considers it necessary to straighten the stream in the locality in order to effectually carry out such scheme, he may so report to the council, and this portion of the work may be completed in accordance with the report. The owner of the west-half of lot 7 might be entitled to compensation for the diversion of this stream. The council can legally settle any claim he may have in this way by piping the water to his land. If the engineer reports that this party will be benefited by the construction of the drainage works, he would be a proper signatory to the petition.

4. According to the dicta of Mr. Justice Osler (Justices Moss and Lister concurring) in the case of township of Warwick vs. Township of Brooke, recently

heard by the Court of Appeal, it would appear the mother and sons rated on the last revised assessment roll, as joint owners of the premises, are the proper persons to sign the petition. The learned judge in the course of his judgment says: "the legislature must have meant to give some effect to the assessment roll, by referring thereto in successive Acts from R. S. O., 1877, hitherto in uniform phraseology different from that which had been used in earlier Acts on the same subject. It is not unreasonable to hold that the legislature meant what it said, for opportunities of dealing with the question of ownership are afforded on appeals to the Court of Appeal and to the county judge. The section takes the roll as finally revised and gives effect to it, and it is *conclusive* for the purpose of conferring jurisdiction upon a council to entertain a petition."

5. No. (See sub-section 1 of section 3 of the Act), but the council cannot dispense with the services of an engineer and pass a by-law for the construction of a drain.

6. No. See section 17 of the Act.

Dog-Tax.

182—F. D. M.—1. Have there been any changes in the law in regard to taxes on dogs, since the R. S. of Ontario, 1897, were issued?

2. If not, is it necessary to pass a by-law annually on the petition of twenty-five rate-payers, or does by-law passed, say, ten years ago, exempt dogs from being taxed, until such a by-law is repealed?

3. I enclose a true copy of a by-law passed in this municipality in the year 1891. There have been no dog-taxes levied since. Has the municipal council been acting legally, exempting dogs from taxes ever since the passing of this by-law?

BY-LAW NO. 480.

By-law of the municipal council of the township of A.

WHEREAS, by the Statutes of Ontario, of 1890, chapter 62, section 2, township councils are authorized to pass by laws that taxes shall not be levied on dogs.

AND WHEREAS, twenty-five have petitioned that said tax be not levied on dogs. Be it enacted, and it is hereby enacted, that the said tax or any part of it shall not be levied in the municipality of the township of A.

Passed and signed in council this 18th day of May, 1891.

Clerk.

Reeve.

1. No.

2. No. When a by-law has been passed pursuant to section 2 of chapter 171, R. S. O., 1897, it will remain in force until repealed by by-law of the council.

3. Yes.

Permit to Carry Revolver.

183—SUBSCRIBER.—Is it necessary, under by-law or statute law, to have magistrate's certificate to carry a revolver? Please give me chapter and page of Act and all particulars.

Yes, unless the person carrying the revolver is a justice or public officer; or a soldier, sailor or volunteer in His Majesty's service on duty; or a constable or other peace officer. See section 105 of the Criminal Code of Canada.