

# QUESTION DRAWER

Subscribers are entitled to answers to all Questions submitted if they pertain to Municipal Matters. It is 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 will be published unless One Dollar is enclosed with request for private reply.

## Effect of Omission of Voter from Judge's Certified Copy of List.

55—A. O.—I have got my voters' list certified by the Judge, and since I find that there is one ratepayer left off the printed list by error of the printer.

1. Can I by certificate to the deputy-returning officer entitle him to have a vote at the municipal election?

2. Can I, by sending my certificate to the Judge, have him placed on the list for Local Legislature and Dominion votes if this should be the list used for that purpose, that is by sending certificate at once?

1. No. See section 165 of The Consolidated Municipal Act, 1903.

2. No. There is no provision made for the remedying of a mistake of this kind. If the name of this voter had been duly entered on the list, certified by the Judge, and inadvertently omitted from the poll-book furnished a deputy-returning officer for use at a Provincial or Dominion election, the voter could tender a ballot in pursuance of the provisions of section 108 of chapter 9, R. S. O., 1897. (See also section 5 of chapter 14 of The Dominion Statutes, 1898, The Franchise Act, 1898.)

## Bonus and Exemption from Taxation to Owner of Mill.

56—W. P.—If the council exempted the mill from taxation and, by motion, agreed to pay the ground rent *prior* to the passing of the sections mentioned in question Number 51, viz., sub-section 12 of section 591 and section 591a of The Consolidated Municipal Act, 1903, how then would the matter stand?

The by-law and the motion were passed in the year 1902.

The sub-section and section quoted were enacted as part of The Municipal Act by sections 9 and 10 of chapter 33 of The Ontario Statutes, 1900, and were therefore in force at the time this by-law and resolution were passed.

## Procedure When Less Than Half the Number of Candidates for Councillor Remain in the Field.

57—A. S.—At our municipal nomination five candidates were proposed for reeve and six for the council. By reason of retirement there remains one candidate for reeve and one for the council.

Are these two elected?—that is, will the new election be to fill the existing vacancies, or has the retirement of more than half annulled the previous nomination and necessitated an entire new election?

These two parties are not duly elected reeve and councillor of the municipality respectively, and a new election should be held. Section 131 of The Consolidated Municipal Act, 1903, provides that "in case, by reason of such retirement, *less than half the members of the council are elected*, the clerk (as returning officer) shall cause a new election to be held in the manner provided by this Act; and until such election is held, and the council elected, the council of the preceding year shall continue in office, and may do, or cause to be done, all such acts as a council duly elected for that year might lawfully do."

## No "Single Tax" in Ontario.

58—THUNDER BAY.—At the nomination meeting the question of "single tax" was brought up, and some asserted that single tax was in operation in several municipalities some time. One said it

had been in operation in the County of Peel for years. I don't think myself that it can be adopted under the present Municipal Act, but I have been instructed to ask you.

1. Has any municipality in Ontario adopted the single tax?

2. Can municipalities under the present Municipal Act adopt single tax?

1. No.

2. No.

## Duty of Clerk When Candidate Elected is Disqualified.

59—W. I. N.—All of the candidates for councillor have resigned but four, the required number. But one of these men is a separate school trustee and therefore disqualified. I have declared the three elected by acclamation and have ignored the proposition for the fourth man. Did I do right?

The returning officer was not legally justified in neglecting or refusing to declare the separate school trustee duly elected a member of the council by acclamation under the circumstances stated. A returning officer at a municipal election has no power or authority to constitute himself a judge as to whether candidates placed in nomination are qualified to fill the offices for which they have been respectively nominated or not. This is a question for the decision of the Judge to whom an application may be made under the statute to unseat the disqualified councillor.

## Assessment of Gas Lines.

60—D. D.—Please advise us how to assess gas lines?

See sub-section 3 of section 18 of The Assessment Act, as enacted by section 1 of chapter 31 Ontario Statutes, 1902.

## Procedure When Electors Fail to Elect Council.

61—W. A. McF.—I am clerk of the Township of N. On Monday, Dec. 28th, at 12 o'clock, I opened the meeting for the nomination of reeve and councillors for said township. After forty minutes or so had expired I notified the ratepayers that I had received no nominations, and receiving none for either old or new, at one o'clock I closed and declared the old reeve and councillors re-elected. The meeting was harmonious in every respect and all apparently satisfied. Since I have heard that the proceedings were illegal. If so, will you write me privately at your earliest convenience as to what course I will take on Monday, Jan. 11th, re the taking of declarations, etc. The ratepayers, I am certain, were of the opinion that by letting the time expire all clerk had to do was to declare the old reeve and council elected.

We are of opinion that the clerk did not pursue the proper course under the circumstances stated. He should have been governed by the provisions of section 218 of The Consolidated Municipal Act, 1903, which enacts that "In case, at an annual or other election, the electors, from any cause not provided for by sections 184 or 185, neglect or decline to elect the members of the council for a municipality on the day appointed, or to elect the requisite number of members, the new members of the council, if they equal or exceed the half of the council when complete, or a majority of such new members, or if half of such members are not elected, then the members for the preceding year, or a majority of