

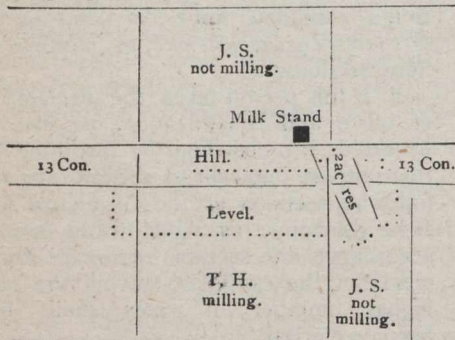
Collection of Taxes When Property Sold After Court of Revision.

45—C. H. M.—A tract of land was owned and assessed to Jones in 1901, who sold the same May 10, 1901, and gave possession, after court of revision, to Brown. Collector served demand on Brown, who claims Jones should pay a share. No agreement between them as to who shall pay taxes. Both have goods in township though none on land in question. Of whom should collector collect taxes?

The goods and chattels belonging to or in the possession of Jones wherever found within the county within which the local municipality lies, are liable to distress for these taxes, since he is the person who is actually assessed for the premises, and whose name appears upon the collector's roll for the year as liable therefor (see section 135 of the Assessment Act, subsection 1, clause 1). The goods and chattels of the present owner of the premises may also be distrained, if they are actually found on the premises, whether such owner is assessed in respect of the premises or not. See clause 3.

Closing Old Road and Opening New.

46 COUNCILLOR—If the council makes a road round a hill, can they also stop up the road over the hill or will they have to keep both roads open on account of it being a milk-road and a milk stand on the top of hill, or can the cheese company force J. S. to put his milk on the road, it being not more than two acres? The dispute is that the council will have to keep the hill open on account of it being on a concession line, and that J. S. can force the cheese company to go up the hill for this milk and he has land on both sides of the road, which you will see by map. You will also see that by going around it saves two bad hills, one going and one coming.



It is discretionary with the council whether they stop up the old road and open the new one or not. If the council considers that it is in the best interests of the community to do so, they may pass a by-law pursuant to section 637 of the Municipal Act, closing and stopping up the old road and opening the new one after having taken the preliminary steps set forth in section 632 of the Act. The provisions of the last mentioned section must be strictly followed.

Election of Public School Trustees.—Married Woman's Right to Vote for Public School Trustees.

47—T. W. S.—The municipal council in our village conducted the election for three public school trustees. Five candidates entered the election field. One of the three successful candidates is complained of on the ground that his nomination paper was seconded by a tenant whom he considers is not a ratepayer. As clerk

I did not consider this seconder as entitled to vote at a trustee election, and he did not present himself to vote. He is entered on the last revised assessment roll as a tenant to a certain property, and no value is assigned to same property opposite his name on said roll. The owner of the property is entered on the second line above the tenant, and it is opposite the owner's name that the extension of value is given to the property. The names, owner and tenant, are not coupled together on the roll, and consequently the tenant could not, in my mind, swear that "he is a ratepayer." "Ratepayer" shall mean any person entered on the last revised assessment roll of the school section (the municipality) for public school rates. This tenant in question is not entered on the roll for a single rate of any kind.

1. Is the nomination paper in question a legal or illegal one?
2. If it is illegal, can the candidate elected legally take his seat at the school board?
3. If the elected candidate cannot legally take his seat at the school board, can the candidate who obtained the next highest number of votes claim his seat, and if so, what would be his mode of procedure?
4. Can a man and wife, who are assessed, bracketed together, the wife as owner, the husband as tenant, both vote at a school trustee election?

1. Subsection 1 of section 60 of the Public Schools Act provides that a meeting of the ratepayers of an incorporated village for the nomination of candidates for the office of public school trustees shall take place at noon on the last Wednesday in December, etc. This is to be a meeting of the ratepayers as defined by subsection 7 of section 2 of the Act, and no one who does not come within that definition has any right to participate in its proceedings. The person who seconded the nomination paper you mention was not a ratepayer within the meaning of this subsection, and had no right to sign any nomination paper, consequently the candidate, whose election is complained of was not properly placed in nomination; but we think that section 204 of the Municipal Act may be invoked in support of the election and that the court will not set it aside.

2. The candidate can legally take his seat at the school board and retain it until the election is avoided; but, for the reasons stated, we do not think that the court will avoid it.

3. In case the election is contested, as provided by section 63 of the Act, it rests with the county judge, who hears the matter, to say whether the candidate having the next highest number of votes, or any other candidate, has a right to the seat when and if he declares it vacant. (See subsection 2 of section 63.)

4. By section 13 of the Public Schools Act, 1901, every ratepayer as mentioned in this section, is entitled to vote on any school question whatsoever. A married woman is not excepted, so if the married woman mentioned, and her husband are ratepayers as defined by subsection 7 of section 2 of the Public Schools Act, and respectively possess the qualifications set forth in section 13 of the Act, they are both entitled to vote at an election of school trustees.

Nomination Proceedings.

48—J. H. T.—At our nominations the clerk received nominations, the hour was 7 o'clock and of course the law allows one hour for nomination. At about ten minutes past eight the clerk was open to receive resignations until all had resigned for council but one. One other was persuaded to stand and it was claimed as it was after the hour, his resignation was not in order only by writing and a witness. In the Revised Statutes, page 2,401, near the top of the page we find it says, immediately at close of nomination hour, it is the duty of the clerk, when only one for an office is nominated that he should declare that one elected. When the party in question resigned verbally after 8 o'clock, leaving the office open, then when it was pressed on him that it was not a resignation unless in writing, he allowed him to stand as one elected, then afterward on some others raising objections he considered him not elected. By allowing him to stand elected there would be a reeve by election and two by acclamation for council. Now by this last decision only one reeve and one councillor, therefore council cannot meet and do business, and clerk is calling another nomination. Was that resignation after the hour legal or not when not in writing?

In re E. J. Parke, Police Magistrate of the City of London (30 Ont. R. p., page 498), it was held by the divisional court that the provision in subsection 2 of section 128 of the Municipal Act, which provides for the closing of the meeting for the nomination of candidate for municipal offices after the lapse of one hour, only applies where not more than one candidate is proposed, subsection 3 applying where more than one candidate is proposed, in which case no time limit is prescribed. We infer, however, that in your case, the clerk or returning officer closed the nomination meeting at eight o'clock, p. m., this being the case, all resignations after that time should have been in writing, signed by the retiring candidates, respectively, in the presence of a witness and delivered to the clerk of the municipality within the time mentioned in the Act. If this was not done in the case of the candidates you mention, he never legally resigned his candidature, and should be declared elected by the returning officer, and another election held to complete the number of councillors, in the manner prescribed in the Municipal Act.

A Drain on Government Lands.

49—G. P.—There is a ditch running through A's and B's land. A cleaned it out through his land, wanted to clean it out through B's, which is the outlet. B refused to let him do it or to

