

ment, rent or rate, or instalment thereof, and be collected by the collector or otherwise, as if the same had originally been imposed and formed part of such unpaid tax or assessment, rent or rate, or instalment thereof." In order that the council may know the exact amount of the additional percentage to be collected on the roll, the by-law should require the collector to deliver the roll to the clerk on the 14th December that the additional amounts may be added to the roll, and a certificate of the total additional amount should also be added in order that the treasurer may know the amount to be paid him by the collector when he makes his final return.

"A" is a candidate for the position of a councillor for re-election. It was understood that his qualification was faulty, nevertheless he was nominated by two respectable ratepayers. (1) Can returning officer refuse to accept such nomination? (2) "A" gets elected, in fact heads the poll; can the clerk refuse to accept his declaration of qualification and office? (3) Must the question remain until a protest is entered against such procedure? (4) Whose duty is it to see the law enforced? W. L.

The duties of the returning officer and the clerk are ministerial. They have no power to decide as to the qualifications of a candidate. Their duty is simply to see that the election itself is carried out in accordance with the statute, and the question of qualification of a candidate must be left to the decision of the courts. Any ratepayer may take the necessary steps to set aside an election.

A side-line which is unused because of a road in lieu of it passing through the land of A, has been fenced in by the latter and used as a pasture. Can his neighbor B, whose land also adjoins the side-line, claim the use of half of the land? W. G.

No. Section 552 of the Municipal Act says that in case a person is in possession of any part of a government allowance for road laid out adjoining his lot and enclosed by a lawful fence, and which has not been opened for public use by reason of another road being used in lieu thereof, such person shall be deemed legally possessed thereof as against any private person, until a by-law has been passed by the council having jurisdiction over the same.

Can an electric light plant, poles and wires be assessed to their full value? Would it come under the head of personal property? J. F.

A somewhat similar question appears on page 5 of the February number to which we refer our correspondent. The dynamo and apparatus situate in the building is certainly liable to assessment. If not attached to the building it would be assessed as personal property, but if a fixture, it would become a part of the real estate, the same as machinery in a manufacturing establishment. In reference to the poles and wires on the streets there does not seem to be any provision for their assessment. A change in the act is desirable in order to get over the anomaly in some way.

A person comes into a village during the time the assessor is doing his work, starts business as a merchant, has the goods in trust, and claims exemption in consequence. Can a corporation claim the \$50 deposit from him as a transient trader under the Municipal Assessment Act of 1888, section 23, sub-section 90, a by-law being in existence under the same? If so how long or when would the amount

deposited be taken up in taxes? If the said merchant claims or demands to be assessed for personal property, and is assessed accordingly, could the corporation still collect the \$50 deposit under the by-law? M. E.

The municipality can insist upon payment of the license fee at any time so long as the person's name has not been entered on the assessment roll for income or personal property for the current year. A resident not already so assessed would also be liable before doing business. The fact of not owning the goods would not affect his liability in this respect. The assessor has until 30th April to return his roll, and no particular day is specified for entering any name, so that he would not be bound to accede to the request of the party for immediate assessment, and where he had reason to believe that to do so would result in loss to the municipality he would be justified in delaying the entry, for once the name is entered as assessed for personal property, no further claim could be made in respect of a transient trader's license. The trader who has paid the license fee is entitled to credit for it afterwards on his taxes if he remains until taxes are due, even though it might take more than a single year's taxes to take it up. The intention of the law is good, as it aims at protecting the municipality in the matter of revenue, and protecting the legitimate dealer from unfair competition from the numerous Cheap Johns who make a business of opening out for a short time in country villages, to unload surplus stocks, by which local trade is demoralized. The clauses of the Act referred to by our correspondent could have been improved by being made more explicit in their terms so as to cover all the ground relating to such cases.

DIVISION COURT CLERKS ASSOCIATION.

The following questions were discussed by the Division Court Clerks at the last annual meeting of the Association, and as these questions and replies are of considerable interest, we copy them entire. With all due respect, however, we have to express dissent from the answers given to a few of the questions. For instance, question 11 asking a clerk can issue a garnishee summons attaching money in his own hands as clerk is answered there in the affirmative. We hold that such money is not garnisheable at all, and even if it were so the proper course would be to obtain a judge's attaching order to serve on the clerk, as it is against all practice for an official to issue papers for service on himself. Then as to the answer to question 15, in which it is suggested that the clerk would be justified in interpreting a judge's order to enter judgment "forthwith," as meaning *immediate* without reference to the time given by statute is surely wrong. The word "forthwith" does not always mean *immediate*, and cannot fairly be so interpreted in sub-section 4 of section 111 of the Division Courts Act. Had no defence been entered, the plaintiff would not be entitled to a limitation of the time given in section 109, and the mere reference of the nature of the defence to the review of the judge for his decision, allowing that he set it aside, was surely not meant to give the plaintiff a better position than he would have had provided no defence had been entered at all. The word "forthwith" in sub-section