

QUESTION DRAWER.

Subscribers are entitled to answers to all questions submitted, if they pertain to Municipal matters. It is particularly 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 answered will be published, unless \$1 is enclosed with request for private reply.

Absence of Reeve.

237.—B. O.—Our reeve contemplates leaving for the Northwest and will be absent from four to six months. Can he hold the position of reeve or will he have to resign?

Section 177 of the Municipal Act provides that a member of the council who absents himself from the meetings of the council for three months without being authorized so to do by a resolution of the council entered in the minutes, his seat in the council shall thereby become vacant, and the council shall declare the seat vacant, and order a new election.

Section 239 of the same act provides that in the absence of the head of the council and also of the deputy-reeve, if any, by leave of the council or from illness, the council may, from among the members thereof, appoint a presiding officer, who, during such absence, will have all the powers of the head of the council. As your reeve proposes to be absent from the council for more than three months, he must secure permission by resolution, and if there is no deputy-reeve in the council, a chairman may be appointed, who will have all the powers of the reeve. The resolution should specify the length of time for which the reeve obtains leave of absence.

See section 34 of the Municipal Amendment Act in this issue.

Bicycles and Sidewalks—Councillor's Gravel Pit.

238.—NED.—In our municipality there is an unincorporated village. Bicycle riding upon sidewalks has become so troublesome that many are complaining. What course should the council take to prohibit bicycle riding upon sidewalks in said village or a part thereof without effecting any other part of the corporation?

2. Two years ago a certain party leased to the corporation a gravel pit. In 1897 said party was elected township councillor, gravel leased being all used, more has been taken. How can said party be paid or in what way can he receive his pay without violating his declaration of office or being disqualified?

1. A by-law may be passed under the authority of sub-section 27, section 496, Consolidated Municipal Act, 1892, or chapter 45, section 51, Act of 1897, on and after July 1, 1897.

2. In order to do business with the municipality he must keep out of the

council. See section 431, Consolidated Municipal Act, 1892.

County or Government Bridge.

239.—M. A. C.—A bridge was built across a river, said river dividing two counties. Bridge was built by commissioner appointed by the Council. The Dominion and Provincial Government each gave \$2,500; the balance was raised by subscription.

Who is responsible for opening and closing the swing?

In the absence of an agreement we are of opinion that the counties would not be liable for operating the bridge.

Non-Resident Tenants to be on Part 2 Voters List.

240.—W. C. A.—In the present number of your paper I notice under question No. 228 (3) "Are tenants who are assessed for say \$400, but are non-residents, to be placed on Voters' List Part 2" that your answer is "Yes."

Is this not an error or an oversight? See sections 79 and 103 the Consolidated Municipal Act, 1892.

If a tenant is otherwise qualified he ought not to be left off the voters' list because he is at the time of making the list a non-resident. Unless this course is adopted many persons may be disfranchised. The oath requires a tenant to swear that he was on the day of the final revision of the assessment roll a tenant. He is not required to swear that he was at that time a resident, but only that he has been a resident for one month next before the election. He should therefore be put upon the list so that if he should afterwards become a resident for one month before the election he would be entitled to vote.

Tax Sale Notes.

241.—ALGOMA.—At an adjourned tax sale our municipality bought in a number of parcels of land. Some time before the expiration of one year from day of sale, council, by resolution, instructed treasurer to sell what lots he could and accept \$5.00 from person buying, and balance of price after a year and a day from date of sale. No written agreement.

1. Is such transaction legal or binding on either party.

2. During 1896 council have sold several such lots and accepted notes from purchasers instead of cash, some of notes not maturing until December, 1897. Deed to be given on payment of last note. Is this transaction legal, and can notes be collected if parties are worth them?

Copy of resolution passed Dec. 15, 1894: That the treasurer have power to resell all lands that are in the hands of the council for the amount of taxes and costs charged against them, and demand a deposit of \$5 on every lot sold.—Carried. Adjourned sale November 4, 1894.

We can see no reason why sale is not legal or why notes cannot be collected.

Sale of Gravel From Road Allowance.

242.—A COUNCILLOR.—1. Have pathmasters or councillors any legal right to give any person or persons liberty to take any soil or gravel or sand off a concession road for his or their private use?

2. Has a Council power to sell by the load or otherwise to any person or persons as above mentioned?

3. Can a township council take gravel from the road allowance and undermine a line fence?

4. Can a council order gravel to be taken off the road allowance and taken miles away when required nearer?

5. Would a council be held liable in case an accident occurred as a result of holes formed in the side of the road through the taking out of gravel by their order?

1. No.

2. No.

3. No.

4. Yes.

5. Yes.

Fences on Highway—To Remove.

243.—W. H.—1. Can a municipal council be compelled to run lines to make persons remove fences off road allowances, the original posts having been lost or removed (on town line).

2. Would council be justified in sending Road Commissioners to remove the fences at the cost of persons refusing to remove the same?

1. No. See section 491 Municipal Act.

2. Yes, but better way would be to indict them before the grand jury for obstructing the highway.

Treasurer or Collector.

244.—REEVE.—Can the treasurer of an incorporated village be appointed and act as collector for same municipality?

No, but the council may require the payment of taxes and of all local improvement assessments to be made into the office of the treasurer. See section 53 of the Assessment Act.

A Drainage Problem.

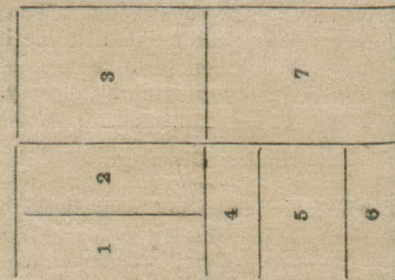
245.—W. Y. M.—The enclosed diagram shows the boundary lines of seven farms. The water drains naturally from part of No. 1, naturally and through artificial drains from No. 2 and 3 and naturally from part of No. 7 into Nos. 4, 5 and 6.

The owners of No. 2, 3 and 7 refuse to take any steps to carry the water that drains from their farms on to Nos. 4, 5 and 6 to a proper outlet.

1. What steps can the owners of Nos. 4, 5 and 6 take in order to get rid of the water which flows from Nos. 1, 2, 3 and 7?

2. Would a petition to the municipal council of the municipality describing farms Nos. 1, 4, 5 and 6 as the area to be drained by a drain or drains and signed by the owners of said farms be a proper petition for the council of the municipality to entertain?

3. Can the engineer assess other lands than the farms within the area thus described in the petition for benefit?



1. It seems to us that this is a case within the Ditches and Watercourses Act, 1894, although it is quite possible that when the engineer makes an examination it will be necessary to make a more extensive drain than is authorized by section 5 of this act, and that it may be necessary to obtain the authority of the council upon the petition of a majority of the owners of all the land to be affected. See cap. 67 act of 1896.