

## 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 stamp addressed envelope. All Questions answered will be published unless \$1 is enclosed with request for private reply.

imperative that the council pay all officers, printing and other necessary expenses out of the balance? We have no debenture debt.

3. If the attention of the council is called to above section, and they continue to spend all municipal taxes, fifty per cent. on roads and bridges, and fifty per cent. on general expenses, what recourse have ratepayers?

4. Is any school rate a municipal rate, re above section?

1. It is impossible for us to answer this question, not knowing the locality, and the amount of labor and trouble a person would have in collecting the taxes. Your council should be the best judges as to this. They should employ a competent man to do the work, at a salary to be mutually agreed upon.

2. The council should expend in each township in the union the whole of the amount of taxes collected therein in any year, less ten per centum thereof, and the costs of collecting such taxes, "on roads, bridges and other works of the like kind." Sub-section 2 provides that "the council of the said union shall be at liberty to retain and appropriate for the general and other expenses of the municipality, the reservation of ten per centum, and the expense of collection." The general expenses of the municipality include the salaries of officers, printing and other necessary expenses, and should be paid out of the fund created by the reservation of ten per centum of the taxes collected in each township forming the union.

3. If the council of the municipality persist in refusing to collect and disburse the taxes, as required by this section, they could be restrained by injunction proceeding from future transgressions of the law.

4. No.  
Surety for Collector for 1900 Cannot be Auditor for 1901.

100—J. F. M.—Can a bondsman for our collector of rates for the year 1900 act as one of our auditors for same year legally?

We presume you mean that this person was appointed by the council for 1901 to audit the accounts of the municipality for 1900. This being the case he cannot be appointed. As surety for the collector for 1900 he had a share or interest in a contract or employment with or on behalf of the corporation. See section 299 (S. S. 1.) of the Municipal Act, and he cannot take the solemn declaration required by section 314 of the Act before commencing his duties.

Mortgagee to Council of Township Cannot be Its Auditor.

101—W. E. A.—"A," resident ratepayer, bought land and property from a municipal corporation, and gave in payment a mortgage upon the same with payment falling due on the 15th of November each year, during term of mortgage. At the first meeting of council, 1901, this party was selected as one of the township auditors, but he declined to take the declaration of office on the ground that a contract existed between himself and the corporation. The land mortgaged is in the township. Is the party disqualified from acting as auditor until the mortgage is paid off?

Yes.

Remuneration of Councillors in Village.

102—P. B. R.—1. Our council are desirous of obtaining for this year, remuneration for their services. I am aware that they can vote the reeve a certain sum but not the councillors.

### Liability for Accident when Sheep Allowed to Run.—Compulsory Completion of Ditches and Watercourses Drain.

96—H. M.—Our council has a by-law allowing sheep to run on the highway.

1. If they lie on the road and a rig gets upset, or a horse shies and runs away, causing damage to rig, would the council have to pay damages, or would the owner be liable?

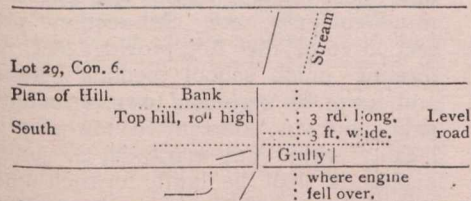
2. A ratepayer calls on the township engineer under the Ditches and Watercourses' Act, and the engineer awards that a ditch be constructed, beginning at a creek on lot 25, thence west, crossing the sideroad, thence along the west side of sideroad, thence west through lots 26 and 27. The owners of lots 26 and 27 complete the ditch to sideroad, but the owner of lot 25 neglects to complete his part, and the water is brought to sideroad, and left there without an outlet. Can the council take any action against the owner of lot 25 to complete his part of the ditch?

1. We do not think that either the owner or the municipality is liable for this accident.

2. The owners of lots numbers 26 and 27 are not liable to any action, or punishable in any way, because they have simply done their legal duty, by completing the portions of the drain, awarded by the engineer, to be constructed by them. Section 28, of the Ditches and Watercourses Act, provides for notice to the engineer in case any of the persons directed by the award to do any portion of the work, make default.

### Municipality's Liability for Accident.

97—G. W. T.—On January 13th, a ratepayer of this township was coming down a small hill (being icy at the time, and some ten or eighteen inches higher on the east side than on the west,) with an engine. On this part of the hill the engine slewed off the road and toppled over an embankment at the foot of the hill into a gully some three or four feet below, doing considerable damage to the engine. The road at the foot of the hill is only eight or nine feet wide, no guards having ever been placed on the sides for protection. The man has now informed council that he will hold the township responsible for all damages and expenses. Enclosed you will find a plan of said road. Would you, in your opinion, under the circumstances, think council would be acting right in settling with this man?



This is a question of fact rather than one of law. If the road at the place where the accident happened was reasonably safe for public travel, having in view

the amount of travel upon it and the means at the disposal of the municipality to keep it in repair, the municipality is not liable. But it strikes us that the person who was injured may be able to show that the road at the spot where the accident happened was so narrow and somewhat crowned that it was for that reason a dangerous place in some seasons of the year. The legal editor of the WORLD had a case about three years ago very similar in its facts to this where a small ravine was filled up. The surface of the filling was about eight or nine feet wide. Twenty years before the accident a railing had been placed on either side but shortly before the accident about sixteen feet of the railing on one side fell down leaving a gap of sixteen feet. A man was driving an engine down a slight decline to the filling when horses, man and engine went through the gap. Mr. C. Justice Armour held the municipality liable in this case. As far as we can judge from the facts which you have given us we think this is a case for settlement unless the municipality has some other defence such as want of notice required to be given by the Municipal Act. See subsection 3 of section 606 of the Municipal Act.

### Cannot Adopt Prior Assessment.

98—P. L.—Can a township council, like here, adopt the previous assessment to levy the taxes on for this year, dispensing with the payment of an assessor? If so, what chap., section and statute would you refer to? Is the amendment of 1899, sections 26 and 27, applicable in that case, or does it apply to territorial districts only?

Your township, being in the county of Prescott, cannot legally adopt the assessment of the previous year as the assessment for the present year. An assessor must be appointed by the council each year (see sec. 295 of the Municipal Act) who must make an assessment in accordance with the provisions of the Assessment Act. We cannot tell what statute you refer to, as you do not give us the chapter, but sec. 42 of chap. 225, R. S. O., 1899, applies to municipalities as territorial districts only.

### Appropriation of Taxes in Rainy River District.

99—R. W.—Two townships in Rainy River District are united for municipal purposes. Chap. 225, sec. 51, sub-sec. 2, R. S. O., 1897, reads, "ten per centum and cost of collection to be appropriated for general and other expenses, the balance to be spent on roads and bridges."

1. What per centum would be a reasonable sum for "cost of collection?"

2. What amount of each dollar collected should be spent on roads and bridges, and is it