

1. Has the municipal council the authority to grant any money to a ratepayer to make a road on his own property to get to a public road?

2. Is the council liable to provide a man a way to get to a public road?

3. Can the reeve of a municipality order out the municipal road surveyor to survey a road before the matter is brought up at a council meeting?

4. Can such a surveyor go on to any person's property to survey a road before notice is given to the person owning the land where such surveying is going to take place?

1. No.

2. No, unless by constructing a drain, or by raising or lowering the roadway or otherwise, the council has destroyed his means of ingress and egress to and from his premises. In this event the owner of the premises would be entitled to compensation for the damages he has thus sustained. The measure of damages would be the cost of building a new approach to the premises, and we are of opinion that the best course for the council to pursue would be to build it for him.

3. No. The reeve is only a member of the council or governing body of a municipality and should not transact corporate business independently of his colleagues.

4. We gather that it is the intention of the council to establish a new road. If this is so, it should pass a by-law pursuant to the provisions of section 637 of The Consolidated Municipal Act, 1903, after the preliminary proceedings mentioned in section 632 of the Act have been strictly observed. If it is necessary to expropriate the land necessary for this road, and the council and owner cannot agree as to the amount of the compensation to be allowed him, the matter will have to be referred to arbitration as provided in section 437 of the Act. It is not necessary, however, that the amount of the compensation should be paid before the land is entered upon for the purpose of building the road.

Qualification of County Councillor and Councillor and Mayor of Town.

44—J. E. S.—1. Can a member of county council legally act as public school trustee of a school in his district?

2.—Can the mayor of a town legally sign and assist in passing through the council a by-law granting a Street Railway Company right of way through the town and exemption from taxes for twenty years, himself being a director of said company?

3.—Can a man legally act as a councillor or mayor of a town who cannot do business in his own name, but signs all bills and receipts in his wife's name?

1. Sub-section 1 of section 80 of The Consolidated Municipal Act, 1903, amongst other things provides that "no member of a school board for which rates are levied shall be qualified to be a member of the council of any municipal corporation." This applies to members of a county council.

2. He cannot legally vote for or against the by-law, but if the by-law receives a sufficient vote to carry it without his vote, we do not see why he should not have the right to formally sign it.

3. Yes, if at the time of his election he had, or his wife had, as owner or tenant, a legal or equitable freehold or leasehold, or an estate partly freehold and partly leasehold, or partly legal and partly equitable, rated in his own name or that of his wife on the last revised assessment roll of the municipality to the amount mentioned in sub-section 1 of section 76 of The Consolidated Municipal Act, 1903.

Council Can Levy Drainage Assessment in One Year.

45—F. M.—1. After adopting the report of an engineer, in respect of a drainage work, under the Municipal Drainage Act, has a township council authority in preparing the necessary by-law, to levy and collect upon and for the lands assessed, the total amount required in one payment, or must they borrow the money,

issue debentures, divide the special rate into a number of equal parts, and collect one part each year during which the debentures have to run?

The council can legally levy and collect the cost of the construction of drainage work under the provisions of The Municipal Drainage Act in one payment, but it should not do so if the amount is large, and the payments would, as a consequence, prove burdensome to the owners interested.

Right to Use Adjoining Land when Road Impassable—Removal of Fences Causing Accumulation of Snow—Liability of Pathmaster.

46—J. E. H.—A and B are the only ratepayers on a beat, A being pathmaster. The roads filled up and were impassable, C and D were coming through and got stuck, took B's field to the village. B summoned them before the magistrate for trespassing and they had to pay \$15.00, were told to look to the council for redress. By-law states that pathmaster must keep open road under penalty of fine and to warn out his men to do so, and if they did not go may be fined. The fences are post and rail and always fill the road in snow storms.

1. What steps should the council take to recover the \$15.00 to pay C and D. Could A and B not have done their road work for next year in breaking it open?

2. Should the fence not be removed as it is a nuisance to the public for blockade, at the owner's expense?

3. Is the pathmaster and ratepayer not subject to fine?

1. We do not understand how C. and D. were required to pay this \$15.00 or to be found guilty of trespassing under the circumstances mentioned. If, by reason of obstructions, or want of repair, a highway has become impassable, travellers may enter upon adjoining lands to obtain a free and safe passage, doing no more damage to such lands than is necessary under the circumstances without incurring any liability as trespassers. Mr. Justice Hagarty so decided in the case of Carrick v. Johnston (26 U. C. Q. B., 65,) and Lord Mansfield in the case of Taylor v. Douglas (Douglas 749) remarks that "highways are for the public service, and if the usual tract is impassable, it is for the general good that people should be entitled to pass in another line." The council is not concerned in this dispute and should not interfere in the matter at all. If the council has passed a by-law pursuant to sub-section 3 of section 537 of The Consolidated Municipal Act, 1903, A. and B. can be allowed for work in keeping this road open in their next season's statute labor.

2. The council can require the removal of these fences in the manner provided by sections 1 and 2 of The Act Respecting Snow Fences, (R. S. O., 1897, chapter 240.)

3. Yes, if the council has passed a by-law pursuant to the authority of section 702 of the Consolidated Municipal Act, 1903.

Duties of Clerk after Vote on Local Option By-law.

47—W. J. B.—1. This municipality intends to vote on Local Option by-law on same date as municipal elections are held, and if the by-law is carried or has a majority of votes, what is the duty of the clerk thereto, viz., declare the by-law carried, or is it necessary to register it, promulgate it or not?

Sub-section 1 of section 141 of The Liquor License Act (R. S. O., 1897, chapter 245,) provides that a by-law of this kind shall be duly approved of by the electors of the municipality in the manner provided by the sections in that behalf of The Municipal Act. Section 364 of The Consolidated Municipal Act, 1903, provides that "the clerk, after he has received the ballot papers and the statements before mentioned of the number of votes given in each polling place, shall, at the time and place appointed by the by-law, in the presence of the persons authorized to attend or such of them as may be present, without opening any of the sealed packets of ballot papers, sum up from such statements the number of votes