

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 25th 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.

Clerk's Salary—Cost of Building Culvert Across Railway.

213.—Essex.—1. The clerk is appointed to do the general work of the township. Would this include registration of births, deaths and marriages?

2. Would he be entitled to extra pay?

3. A drain was constructed across a railroad and completed and received by an engineer, but afterwards it was not sufficient to carry the water. The railroad was notified and they put in another culvert. Who pays for the culvert, the drain or township or railroad company?

1. No. Unless the council so specifies at the time the clerk is engaged.

2. This depends entirely on the terms of the contract made between the council and the clerk, at the time he is hired—and as we do not know these terms, we cannot definitely answer this. See our answer to question No. 218 in this issue.

3. If the railway company voluntarily did this work, they should pay for it. If it was constructed by the railway as the result of an agreement entered into between the municipality and the railway company, the cost of the work, should be paid in the first instance out of the general funds of the municipality, and afterwards assessed against the lands and roads liable for the construction of the drainage works pursuant to section 85 of the Drainage Act, (R. S. O., 1897, Chap. 226), provided such agreement was entered into in accordance with sub-section 2 of this section. We are assuming, of course, that this drain was constructed under the provisions of the Municipal Drainage Act.

Assessment of Telegraph and Telephone Companies.

214.—Ayr.—How should telephone and telegraph companies be assessed, and what value can be placed on poles and instruments?

For an answer to this question see our article on page number forty-two of our issue for February last (1903).

Duty of Treasurer as to Keeping of Bank Account.

215.—G. H. B.—1. Can a municipal treasurer legally transfer the funds of the municipality from one chartered bank to another chartered bank without the consent and approval of the council?

2. Will you please give me your interpretation of sub-section 5 of section 291 of the Municipal Act relating to above?

1. No.

2. This section renders it obligatory on the part of a municipal treasurer to open an account and deposit all money belonging to the municipality in such of the chartered banks of Canada or other places of deposit as may be approved of by the council. The treasurer should strictly fol-

low the instructions of the council by whom he is employed, in this regard.

More than one School can be Built in a Section—Municipal and Legislative Grants for—

216.—R. J. B.—1. In one of our school sections the present school is near one corner of the section. Can the trustees build another school in the same section for the accommodation of those who cannot reach present school?

2. If they do build such school, what amount would they be entitled to from the municipality, and from the Education Department?

3. Above school section is No. 1. No. 2 lies mostly to the north, but a part of it lies to the east. The children living in the portion east of No. 1 are nearer the school in No. 1 than they are to No. 2. Can the trustees of No. 2 make arrangements with the trustees of No. 1 whereby these children could attend No. 1 school, and the trustees of No. 2 pay to the trustees of No. 1 the amount of the taxes levied for special public school purposes on the lots in No. 2 from which the children are to attend No. 1?

1. Subsection 3 of section 65 of the Public Schools Act, 1901, empowers the trustees of all rural public schools to provide adequate accommodation for two-thirds of the children between the ages of five and sixteen resident in the section. If the present school-house is not large enough to accommodate all such children the trustees can and should either cause the erection of a new school-house, or the enlargement of the existing one, whichever they may deem best under the circumstances. (See also subsecs. 4 and 5 of this section.)

2. In this event of the council of the municipality should levy in the school-section such sum as the trustees request them to levy under subsec. 9 of section 65 of the Public Schools Act, 1901, and against the public school supporters of the whole township, the sum of \$150 at least for EACH of the schools in this section (or \$300) provided they have been kept open the whole year exclusive of vacations, under the authority of subsection 1 of section 70 of the Act, otherwise such proportionate part of the \$300 as this subsection directs. The building of the additional school-house will make no change in the share in the Legislative grant to which the school section is entitled, as this is estimated on the basis of attendance—the amount payable in every rural school in the territorial districts shall be at least \$100 (see section 7 of chapter 38, R. S. O., 1897).

3. Subsection 1 of section 95 of the Public Schools Act, 1901, provides that "the trustees of every public school shall admit to their school any non-resident

pupils who reside nearer such school than the school in their own section." Subsection 2 enacts that "the parents or guardians of such non-resident children shall pay to the treasurer of the school to which their children have been admitted, such fees monthly as may be mutually agreed upon, etc.," and subsection 3 that "any person residing in one school-section and sending his children to a neighboring school, shall be liable for the payment of all rates assessed on his taxable property for the school purposes of the section in which he resides, but it SHALL BE LAWFUL for any board of trustees to remit the fees paid to the trustees of the neighboring section." When the children attending the neighboring section are three miles or more distant in a direct line from the school-house in the section to which they belong, it is COMPULSORY that the trustees of the section in which such children are resident, remit as much of the taxes chargeable upon the parents or guardians of such children for school purposes as would be at least equal to the fees paid to such neighboring section.

Mayor Not Member of Committees by Statute.

217.—J. M.—This town owns and operates an electric railway and light system. The systems are managed by a Board of Commissioners, composed of five members, three of whom are elected by the people, the fourth elected by by-law of the council and the mayor for the time being is by statute a member. The board for operating the system appoint sub-committees. Is the mayor ex-officio a member of the sub-committees?

2. The town owns a telephone system managed by a committee of the council. Is the mayor ex-officio a member of this committee?

3. The general business of the town is managed by committees of the council, for instance, finance, fire, water and light, etc. Is the mayor ex-officio a member of all these committees?

1. No. The statutes do not so provide. It is customary and advisable that a Board of Commissioners of this kind frame and adopt rules of order for the conduct of their business. One of these rules generally provides that the CHAIRMAN of the board, for the time being, shall be ex-officio a member of every standing or select committee of the board. The mayor of the corporation is not, by virtue of his office, chairman of the board—any member of the board, may be selected to fill this office.

2 and 3. No. For the same reasons as those given above, substituting the word "council" for the words "Board of Commissioners."

Clerk's Salary.

218.—J. M.—1. Please state what extras a clerk is legally entitled to over and above his salary?

2. Is he entitled to extra pay as clerk of Board of Health?

3. Should he be paid extra for selecting jurors?

4. Has council a right to pay clerk extra over and above salary for registering births, deaths and marriages?

5. Please state chapter and section in statutes where clerk's duties are defined.