

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.

Fines Payable by Justice of the Peace to Treasurer.

72.—CLERK.—Are the municipalities entitled to the fines that may accrue from cases tried by Police Magistrates and Justices of the Peace in which the offences are committed, or should they be paid to the county treasurer? Please give authority.

For the application for fines imposed under the authority of the Municipal Act see section 423, and for the application of penalties see cap. 89 R. S. O. 1887, and R. S. C. cap. 180, section 1.

County Bridges—Township Lines.

73.—X. Y. Z.—We understand by the statute, that the county must build and maintain certain bridges on townlines between townships within the county. This being the case, are there any recent decisions as to what constitutes or what is the length of a "bridge"? Where or what is the difference between a bridge and a culvert?

The only decisions throwing any light upon the question are McHardy vs. Ellice, and North Dorchester vs. Middlesex. In the last case there were three streams; (1) Doty's Creek crossed by a bridge sixty-seven feet in length between supports, (2) Kettle Creek crossed by a bridge thirty-one feet nine inches in length (3) Caddy's Creek crossed by a bridge nine feet between supports. Mr. Justice Ferguson held that the county was liable to maintain the first and second bridges but not the third. The Statute does not anywhere make any reference to the length of a bridge. It is not easy to distinguish between a bridge and a culvert. Mr. Justice Patterson in McHardy vs. Ellice says, "I think the duty while confined to what is not improperly called a river attaches wherever the road is crossed by a stream which requires a bridge, as distinguished from a mere culvert, in order to make the road fit for ordinary travel." And in the case of South Dorchester vs. Middlesex, Mr. Justice Ferguson says "As to the Caddy Creek bridge the span is said to be nine feet only. The witness said that a culvert would be sufficient in this place. It is true that a culvert may mean a large or a smaller waterway, but the line must be drawn somewhere. I apprehend that Mr. Justice Patterson used the word and intended to use it according to its ordinary significance, and with reference to culverts as

commonly used in the construction of roads, etc.

Packages Returned in Ballot Box to be Sealed—Measure of Public School Three Mile Limit.

74.—A. B.—1. Is it intended that ballot boxes shall be sealed after ballots are counted at an election, or the packages containing the ballots only?

2. What is the intended meaning of "direct line" as used in sub section 5, of section 88, Public Schools Act, 1896? Is it intended to mean the most direct public road, or a direct line from residence to school house?

1. The packages.

2. The rule is that distance is to be measured in a straight line unless there is a clear indication that another mode of measurement is to be adopted. Under this act the distance must be ascertained by measuring in a direct or straight line between the residence and the school-house.

Taxes—Ditches and Watercourses Costs.

75.—W. W.—I have your collectors guide, and still it is deficient of what I want. As collector for the north half of Maryborough, I have one man who has paid his ordinary taxes, but our engineer has made an award under the Watercourses Act, and our council has dug this ditch and paid for it. It cost this man \$66.11, but he will not pay it, and has forbid me seizing for that amount. You understand ninety acres of his hundred is in my territory or on my rolls, and ten acres of this same hundred is assessed to the corporation of Drayton village. All along the tenth concession up to the first side road is in the corporation of Drayton, and all the man's buildings are on the ten acres; he forbids me from seizing on that account. The award of this ditch calls to be dug on the west half of lot sixteen, in the eleventh concession of Maryborough, but the engineer gave this man his choice, to have the drain on either side of the line fence between this man and his neighbor. This drain is situated on the back side of the farms, all in my municipality, but the buildings and stock of this man are on the front and in Drayton. Now, how am I to collect my money (\$66.11) from him, on his share of the ditch? His neighbor has paid his share \$111.00, I had to seize and sell him, but his barn and stuff was not on the ten acres.

Assuming that the amount is properly upon the collector's roll, it is collectable in the same manner as municipal taxes, see the Ditches and Watercourses Act 1894. If you will refer to the guide at pages six to ten you will find that under sec. 124 Consolidated Assessment Act, 1892, you may levy the tax with costs on the goods and chattels of the person who ought to pay the same, or of any goods or chattels in his possession, wherever the same may be found within the county in which the local municipality lies. As Drayton and Maryborough are both in the same county there can be no difficulty.

Qualification of Councillor.

76.—E. D.—A township councillor is assessed as owner to the amount of \$3600; his two sons also appear on the roll as M. F. and Occupants for the same property. The property is encumbered by a mortgage to the amount of \$4000.

1. Is he duly qualified for the office of township councillor?

2. If not, can proceedings be taken at any time of the year to unset him?

3. Would it change the situation if the sons were on the roll as M. F. and T?

1. Yes.

2. No.

3. No.

Toll Rate to be Collected.

77.—H. B. B.—Can a Toll Road Company collect toll from a person driving along their road for less than half a mile, if he turns off at the first side road he comes to—the Toll Road Company having a gate at the side road?

By sec. 85, cap. 159, R. S. O., 1887, tolls may be taken by any company at each time of passing each gate upon the road constructed or owned by that company. If a person uses the company's road he does not appear to have any right to pass a gate without paying the legal toll, unless he comes within sec. 3 of cap. 196, R. S. O., 1887, which exempts a proprietor from toll when he passes through a toll gate for the sole purpose of going from one part of his lands to another part thereof, provided his vehicles do not proceed more than one half a mile along such turnpike road either in going or in returning, and are using such road for farming or domestic purposes only.

Qualification of Ward Councillor—Protestant May be Separate School Supporter.

78.—CLERK M.—1. Can a ratepayer of a municipality run for councillor in a ward in which he has no property, provided he has sufficient property in another ward of a municipality?

2. Is a nomination for councillor, for a ward of a municipality, legally made by persons who have no property in said ward, but who have property in other wards of said municipality?

3. Can a protestant become a supporter of a Roman Catholic Separate School in the section in which he lives?

4. Or could his children be prevented from attending said school?

1. Yes.

2. Yes.

3. No.

4. Yes.

Farmers Sons—Statute Labor.

79.—TP. CLERK.—Are young men assessed as farmers sons exempt from Statute Labor, or must they be assessed as joint owners with their fathers to be exempt from work?

Not exempt. Must be assessed as joint owners,

Committee of Council—Position of Chairman.

80.—X. Y. Z.—I have acted as chairman of the Poor Relief for 1896. Now I am again appointed for 1897. Can I refuse and not act, or can the council make me act?

Not compulsory.

Auditors Duties—High School Fees.

81.—J. C.—Our municipality comprises a high school district. A fee is imposed on each pupil attending said school. It became known to the auditors, appointed by the council in 1897, that all of the pupils who attended said school did not pay fees, and the auditors made a demand on the high school teacher, the treasurer, and the chairman of said school board for the register for the last five years, that they might include in their report the amount of fees due and unpaid. The demand was refused and only the register of 1896 produced.

1. Have the auditors power to go into the account of fees for 1895 and preceeding years?