

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.

Opening of New Road.

280.—J. A. L.—The municipality wants to open a road in a main line, a part of which is already open. The two parties object to it, and ask unreasonable prices. One claims that the lands reserved for roads is already taken off his land, and the other has no reason whatever. What should we do?

We gather from the language used that the corporation has to acquire land from private individuals to complete the opening up of this road. If this be so, and the council and the owners cannot agree upon the price to be paid by the former to the latter, arbitration proceedings will have to be instituted, pursuant to section 437 and following sections of the Municipal Act. If, on the contrary, the line of the road is an original road allowance, and the private parties are in possession of it, the council may pass a by-law for the opening of these portions thereof, and proceed to open them, and render them in a reasonably fit condition for travel. If the case is one within the provisions of section 642 of the Act, the requirements of this section and section 643 should be observed.

Is Notice of Appeal to Court of Revision Required?—Time of Filing.

281.—H. E. M.—Will you tell me whether a municipal council has power to entertain appeals against assessments made by a ratepayer who did not notify clerk within fourteen days after being served with his assessment slip by the assessor. As you will understand that provision is marked on every assessment slip. My opinion is that it is marked there for the special purpose of giving council a chance to defend such appeals brought before them. Some of our council contend that we have no power to entertain such appeals unless the ratepayer appealing did notify clerk within the limit of time mentioned on slip. I am aware that we need not hear such cases where clerk has not been notified if we do not wish to. Now, what I want to know is, have we power to entertain cases where no notification has been given?

A ratepayer is not required by the statute to notify the clerk of an appeal against the assessment roll within fourteen days AFTER BEING SERVED WITH HIS ASSESSMENT SLIP BY THE ASSESSOR. Nor is such a notice written or printed on the slip if it is in the statutory form. This notice of appeal should be filed within fourteen days from the date fixed by law for the return of the assessment roll, or within fourteen days after the return of the roll, if it is not returned within the time fixed for that purpose. The date filled in, in the assessment slip, should be the day on which the roll is required by law to be returned. See subsection 2 of section 71 of the Assessment Act. The

court of revision has no authority to entertain an appeal or direct an alteration of the roll as a result thereof, unless this notice has been given within the time required by law. The latter part of subsection 4 of section 71 provides that "no alteration shall be made in the roll unless under a complaint FORMALLY MADE, according to the above provisions." Had it been the intention of the legislature to authorize a court of revision to entertain and adjudicate upon a complaint against the roll, when no appeal had been filed as required by law, the Assessment Act would contain a provision similar to that enacted by the latter part of section 33 of the Drainage Act (R. S. O., 1897, chapter 226), which is that "the court (*i. e.*, a court of revision on a drainage by-law assessment) may, THOUGH SUCH NOTICE OF APPEAL HAS NOT BEEN GIVEN, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise, as may be just."

Who Should Pay Expense of Disinfecting?

282.—R. A. S.—A owns a lumber shanty in which Indians were living. They took smallpox and left the shanty while sick. The board of health ordered the shanty disinfected. Who has the right to pay for disinfecting the shanty, the owner of the shanty or the township?

By section 81 of the Public Health Act, it is provided that if a local board of health is of opinion that the disinfecting of any house is necessary, they shall notify the owner to cleanse and disinfect such house, within a time specified in the notice. If the owner fails to comply with the requirements of the notice, under section 82, he is liable to a penalty of not less than 25c., nor more than \$2 for every day during which he continues to make default, and the local board of health shall cleanse the house, and may recover the expense incurred from the owner in default in a summary manner. If the board of health followed the requirements of the Act, the owner of the shanty is liable for the expense incurred.

Powers of Court of Revision.

283.—H. N.—Has a municipal council power to raise or lower an assessment on a ratepayer without an appeal from a ratepayer?

No.

Rights of Purchasers of Lots on Closed Streets.

284.—J. F.—Our town has been incorporated for about twelve years, but before it became incorporated the municipal council of the town

ship gave Hall street, which was rough and hard to open up, in lieu of a street called Agnes street across several lots and joining Hall street again. Hall street was given to A and part of the property which Agnes street crosses belonged to A. A sold the property to B some ten years ago, which property on Hall street was surveyed in five acre lots but is now being divided into smaller lots for building purposes, and as Hall street has been given away there is no way for parties buying the small lots along the street to get out. I understand the exchange of property was made by by-law of the township council, but doubt if the necessary notices, etc., were considered. Under these circumstances, can the town council now make B open Hall street? He says if they do he will close Agnes street, which has been used for fifteen or eighteen years and money spent on it every year by the council, or make the town pay \$100 for Hall street. I have drawn a plan of the streets and enclose same. Kindly give the matter your consideration.

This appears to be a case coming within the provisions of section 641 of the Municipal Act. Even if the preliminary proceedings mentioned in this section were not observed prior to the carrying out of the arrangement with A, we do not think the existing state of affairs can now be interfered with. If a by-law was passed by the council, adopting and confirming this arrangement, it cannot now be quashed or set aside, since proceedings to accomplish this were not taken within one year from the date of the passing of the by-law. (See section 379 of the Act.) No injustice will thus be done the purchasers of the lots fronting on what was Hall street, as they made their purchases with a knowledge of the fact that this street was no longer a thoroughfare, and available for ingress and egress to and from the lots purchased.

Service of Notice of Appeal to Court of Revision—Payment of Expenses of.

285.—H. E.—In the enclosed list of appeals do you think it necessary for the clerk, either personally or by some one under his direction, to serve a notice on each appellant at his place of residence or place of business, he or they residing in the municipality? And if personal service is necessary, should the clerk be paid specially for the same, his agreement with the council not specifying his duties particularly.

Appeals to be heard at the Court of Revision, to be held at the Town Hall, H, on Saturday, May 31st, 1902.

APPELLANT.	RESPECTING WHOM.	MATTER COMPLAINED OF.
John Bear.	Self	Wrongly assessed for dogs.
Sam'l Henry	Self	Overcharged on lands.

H. E.,
Township Clerk,
D.

The statute (subsection 10 of section 71 of the Assessment Act) does not require the clerk to do this work himself, but says that he "shall CAUSE the notice to be left at the person's residence or place of business," that is, that he shall employ someone to effect the necessary services. The person thus employed should be paid such sum as the council considers reasonable. If the clerk has