

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.

Private Weigh Scales on Public Highway.

387—J. H.—Some years since weigh scales were placed on Main street by the proprietor of a store in front of his premises. The store is now sold to one party, the scales to another party. The present owner of the store requests the council to move the scales off the street claiming they are an obstruction.

1. Have the council power to remove them and charge costs to the present owner?
2. Can the council legally remove the scales?
3. Can they compel the present owner to remove them?

1, 2, 3. Section 582, of the Municipal Act, empowers councils of villages to pass by-laws for erecting and maintaining weighing machines in convenient places, and charging fees for the use thereof, etc. This enactment does not authorize the councils to pass by-laws permitting the erection of such scales, public or private, on a highway, and we are of opinion that such scales cannot be so legally placed. In the case of *Cline vs. Town of Cornwall*, (21, Grant 129,) it was held that a municipal corporation may not place, or authorize the placing of obstructions upon highways, for example, weigh scales, upon a street in a town. The private owner has no right to maintain the scales on the highway, and the council ought to notify him to remove them, because if any accidents were to happen, by reason of the scales, the persons sustaining injury would have a good cause of action against the municipality. If the person owning these scales neglects or refuses to comply with the terms of the notice, he may be indicted and punished for maintaining a nuisance on the public highway. It is doubtful whether the council can remove these scales at the expense of the present owner or not, in the event of the neglect or refusal of the owner to do so, as it is questionable whether they would be held to be an obstruction within the meaning of sub-section 3, of section 557, of the Municipal Act. And, anyway, they were not placed there by the present owner. The council may remove the scales at its own expense.

Maintenance of Indigents.

388 I. A.—There is a certain man who was formerly a resident of this municipality, but a few months ago sold out his property here and his wife and family moved away from this part altogether, and the man himself took sick and was in a helpless condition and went away to a hospital, and from there to a friend's house in another county. After about three months he was brought back to this municipality again by his friend who went to the magistrate and made an affidavit to the effect that the party referred to was out of his mind and was dangerous; and on the strength of this affidavit the magistrate

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issued a warrant and sent him to jail under custody of a constable. Since that time the officials of the jail have had a doctor's examination as to the sanity of the man and they say that there is nothing wrong with his mind and have written to the magistrate asking him what they would do in the matter, as they could not hold him there on that warrant. The magistrate called upon the reeve of the municipality asking his advice in the matter, whereupon the reeve telegraphed to the sheriff asking him to try and get the patient in the General Hospital. Was the reeve right or wrong in acting as he did in this matter, and what responsibility, if any, rests on the municipality in this case? We might just further add that this man is in a helpless condition, having lost the use of his limbs and has no means of support whatever, although he has friends who are able to help him, but refuse to do anything.

We do not see that the reeve did anything wrong in telegraphing the sheriff asking him to try and get this man into the general hospital. In doing this he does not appear to have pledged, or made any attempt to pledge the credit of the municipality for the sick man's expenses while at the hospital. In any event the voluntary, personal act of the reeve would not fix any responsibility on the township. We are of the opinion that the municipality is in no way liable in this case.

Vote Necessary to Carry Bonus By-Law.

389 A. Mc. N.—Complying with the Municipal Amendment Act, 1900, page 110 sub-section 4, of section 8, is a by-law to grant a bonus to a manufacturing industry carried, when the conditions are as follows:

Total number of ratepayers in municipality	500
Total number of voters entitled to vote	600
Total number of votes polled for the by-law	275
Total number of votes polled against the by-law	30

We do not understand how the number of ratepayers entitled to vote on a bonus by-law can be one hundred more than the total number of ratepayers in the town, as appears to be the case by the figures you furnish us. However, for the purposes of your question, all we require to know is the total number of ratepayers entitled to vote on the by-law, and the number who voted for and against it. Taking your figures as the basis for our answer, since the number of ratepayers voting against the by-law (30) does not exceed one fifth of the total number entitled to vote (120,) then the assent of THREE-FIFTHS of the total number of ratepayers entitled to vote on the by-law is necessary to carry the by-law. Three-fifths of 600 is 360; since the by-law received the assent of only 275 of the ratepayers entitled to vote thereon, the requirements of the section quoted have not been met, and the by-law is defeated.

Duties of Pathmaster.

390—W. H.—1. Can a pathmaster after all the statute labor in his division has been performed, legally compel a young man (who has returned home after an absence of eleven months, and intends staying only about three weeks,) to perform statute labor or pay commutation tax? If he has such power might he not as well compel any person whose home is in his road division, and returns any time during the year, to do the same?

2. If the pathmaster has acted illegally, how can he be compelled to refund the money?

1. By section 100, of the Assessment Act, it is provided that, "subject, etc., every male INHABITANT of a township who is not otherwise assessed, etc., shall be liable to one day of statute labor, etc." Wharton, in his "Law Lexicon," defines an "inhabitant" as a dweller or householder in any place, and in the case of *R. vs. Mitchell*, 10, East, 511, it was held that an "inhabitant" of a place, speaking generally, is one who has his permanent home there. This young man appears to be only home on a visit, and is not, therefore, an inhabitant of the township within the meaning of section 100, of the Assessment Act, and is not liable to perform statute labor in the municipality, or to pay commutation therefor.

2. This young man should have refused to pay the commutation money, but since he has paid it, the payment is a voluntary one, and he cannot compel the pathmaster to refund him the amount.

Payment of Expenses of Persons Quarantined.

391—J. R.—We had a case of small-pox in this township and wish a little help as to several matters in connection therewith. At the request of the M. D. in attendance, the secretary of the Board of Health authorized the party in charge of the quarantine to hire help to care for and milk the cows etc.

a. Will the words "other assistance" in section 93 of the Public Health Act justify his action? I understand the party quarantined pays expenses of isolation etc.

b. As to procedure in paying expenses, should the Board of Health draw orders on the treasurer of the municipality in the first case as per section 57 of the Act, or should it send the accounts to the party who is well able to pay?

c. In case the party refuses to settle all or any of the accounts, by whom should action be entered, the Board of Health or the municipal council?

d. Would section 61 justify the clerk, in case he refused to pay, placing the accounts on collectors roll as municipal taxes, or must they be recovered by an action at law?

a. No. The person quarantined is the proper party to look to for all expenses of and incidental to his isolation, if he is able to pay them, otherwise they will have to be defrayed by the municipality.

b. The Board of Health has no authority to pay or order payment of these accounts in the first instance. The persons to whom the several amounts are payable should look for payment of them to the person quarantined, or his parents, or other person or persons liable for his support, and make every reasonable effort to collect them from such persons or some of them. In case these persons prove