

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.

Compulsory Cleaning of Outlet of Drain.

418—G. P. There is a ditch running through the farms of A and B. A has cleaned out ditch, and wants B to clean his out, which is the outlet, B refuses to clean his out. Can A go on B's lot and clean ditch? B has forbid him on premises. What is the lawful proceeding? A does not want to call on surveyor as it is only about two days' work.

It is not stated whether this drain was originally constructed under the provisions of the Ditches and Watercourses' Act, (R. S. O., 1897, chapter 285) or not. If it was not, but was constructed merely by mutual agreement between the parties interested, A has no right to go on B's lot for the purpose of cleaning out the drain if A objects to his doing so. His only remedy is to take proceedings to have the drainage works necessary constructed under the provisions of the Ditches and Watercourses' Act. If the drain was originally constructed under an award made pursuant to the provisions of the above act, A's only remedy is to institute proceedings under Section 35 of this act.

County Council Cannot Pass By-Laws Regulating Running of Automobiles.

419—W. P.—1. Have county councils power to pass by-laws for the regulating of the running of automobiles and automotors on public highways?

2. If so, what Act gives them such power?

1. We are of the opinion that the council of a county has no power to pass a by-law for the purpose suggested.

2. Our answer to question No. 1 renders it unnecessary to reply to this.

Councillor Supplying Material to Council or Pathmaster, is Disqualified.

420—G. A. M.—1. When an appropriation has been made for repairing a road by a township council and one of the councillors appointed to look after the expenditure of the grant, is it legal for this councillor to put any of his own material, say timber for culverts etc., in the work and charge for same?

2. Is it legal for any councillor in a township where statute labor is commuted, to sell material to the road commissioners?

1. If a member of the council furnishes any material of his own to be used in doing corporation work and which is to be paid for by his council, he is a person having an interest in a contract with or on behalf of the corporation within the meaning of section 80 of the Municipal Act, and the latter part of sub-section 1 of this section provides that such a person shall not be qualified to be a member of the council. See also sections 83 and 208 of this act.

2. No, for the reason given in our answer to question No. 1.

Qualification of Petitioners Under Drainage Act.

421. S. T.—Under the Drainage Act a lot is described on the petition as lot 10, concession 10, and there are several village lots on the said lot. They are assessed as parts of said lot but not described on the petition. Has the owner of village lots a vote on petition when they are not assessed for benefits?

2. When there is school property on a lot within the area described have the trustees a vote on the petition or should the secretary of the school board have the vote only?

1. No.

2. Neither the secretary nor the trustees can be petitioners under the Drainage Act.

Threshing Engine not a Traction Engine.

422. S. R. W.—Re Traction Engines. Do traction engines used for threshing purposes only come within the meaning of the Act?

We do not think so.

Remedy for Injury to Road.

423. A SUBSCRIBER.—We have in our township a pathmaster, who, in doing statute labor, drew out a quantity of gravel and put same on the road. Some of same gravel being somewhat coarse, one of the men living in the division did not seem satisfied with the work and undertook to rake the coarse gravel off the road in the watercourses. The said pathmaster stopped him, he then sent his wife and hired girl to complete the raking off.

1. What can be done in such a case?

2. Who should take procedure, the pathmaster or the council?

Municipal Councils are trustees for the public in respect of public roads and as such trustees they can apply to the court to restrain any person from doing acts injurious to such roads. It does not seem likely however that what was done in this case was an injury to the road. At all events it seems to us that the act is not one in respect of which any proceedings should be taken.

Payment of Expense of Disinfecting Premises.

424. W. M.—In case the Medical Health Officer of a municipality is called upon to disinfect or fumigate a house in which sickness has been, who is the right and proper person to pay said officer for his duties, the council of municipality or the resident of house?

Ordinarily medical health officers are appointed by municipal councils and their salaries should be, and they are usually

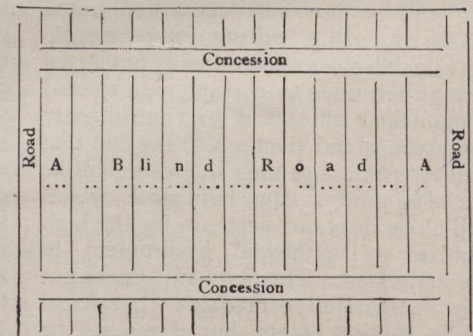
fixed by such councils at the time of their appointment. If a salary was fixed in this case we do not see what claim he can have beyond his salary. If, on the other hand his salary was not fixed he should be paid by the council a reasonable sum for the services rendered by him.

Expropriation of Land for Road.

425—W. D.—Application has been made to the council by parties resident in the vicinity to open a new road on blind line AA between two concessions. Some owners of land through whose property the proposed road will pass object to its formation on the ground that the council should open up the concession allowances instead. One concession is impracticable on account of rocks and swamps and the other by reason of swamp would cost a great deal of money to open out. A good level road can be got on the blind line at a moderate cost. Petitions for and against received.

1. Can the council force a road, compensating the land owners according to award of arbitrators, if the council should decide to do so?

2. Who pays the cost of arbitration and award?



1. Yes, but the council should not open a road unless it is necessary in the public interest to do so.

2. The costs are in the discretion of the arbitrators.

Authority of Town Council to Rent Park.

426—W. H. C.—This corporation is about to purchase a park at present owned by an Association or Company. It is entirely outside the corporation limits and part of the ground has been used by the Agricultural Society which has a building in one corner. The council wish to know whether they have the power to hire or rent this park to societies or clubs or individuals so that they may charge admission fee to certain events. Also what claim, if any, the Agricultural Society has on the town for use at their annual exhibition or fair?

The Society had or has an agreement with the present owners for their occupation once a year for show purposes, but at our council meeting last night we could not ascertain if this agreement was still in force. A by-law for purchase of park was introduced last night. A number of the councillors wished that no action be taken until a few days had elapsed. The matter will come up again on the 10th inst.

If the town purchase the lands mentioned or expropriate them under the power contained in the Municipal Act the Agricultural Society will not have any claim upon the town just because it is an Agricultural Society, but what we have