

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.

Assessment of Farm Land in Villages.

359—J. S. E. 1. Kindly let me know what action the council can legally take in the matter of the following petition and how to go about it:

The Municipal Council of the Village of T:

GENTLEMEN: Whereas certain land-owners in the village of Tiverton have by their petition set forth that their lands in the past have been subjected to burdensome taxation, in respect of certain rates levied by the municipal council of the said village, and have prayed that the said council might grant relief to such owners of farm lands from such burdensome taxation.

Therefore we, the undersigned petitioners, humbly pray:

1. That a three-quarter rate of the general rate of the present assessment be levied on all farm lands comprising the following numbers situated in the said village.

2. That the said rate shall remain in full force during each and every year for the term of ten years.

Signed by A, B and seven other owners of lots within the limits of the corporation.

2. Has the council power to give them a reduction in the "county and school rates," or are they only confined to the "general or village" tax?

3. Is the time for taking action in the matter limited to any particular time other than any time before striking the rate, which is done in September usually?

1. As we understand it, this is a question of the assessment of farm lands within the limits of an incorporated village. Section 8, of the Assessment Act, provides that such lands shall be assessed as farm lands, according to the principles laid down in section 29, of the Act. See clause (b) of sub-section 1. This section applies only to lands in blocks of not less than five acres. If the lands of each of the parties signing the petition contain more than five acres, the assessor should assess them as farm lands as above, and if he has not done this, the parties should appeal to the Court of Revision pursuant to section 71, of the Act, to have this omission rectified. If the parties neglect to appeal to the Court of Revision within the time and in the manner required by the Assessment Act, we do not see that they now have any remedy, as the COUNCIL has no legal right to grant the prayer of the petition.

2. The council has no legal right to grant these parties any exemption from any rate, other than taxation for the expenditure for the public improvements mentioned in sub-section 2, of section 8. The council is required to pass a by-law for the purpose, at least, three months before striking the rate of taxation for the year.

Regulation of the Sale of Bread in Villages.

360—W. J. W.—I am instructed by this municipality to ask you in regard to sale of bread in incorporated villages, as to weight, if any by-law is required. We have two dealers in bread in this place. One bakes and sells his own make, the other does not bake anything whatever, but imports bread for sale of one and a-half and three pound loaves, and sells same for five and ten cents respectively. Our baker makes in two and four pound loaves and sells at same price. The baker asks the council to have the importer sell the same weights as he does. Can the council make legal by-laws to have all bread sold by the two and four pound loaves?

A by-law passed in accordance with the provisions of the Municipal Act is required to regulate the sale and weight of bread in an incorporated village. Sub-section 4 of section 550, empowers councils of such villages to pass by-laws "for preventing the use of deleterious materials in making bread; and for providing for the seizure and forfeiture of bread made contrary to the by-law." Subsection 11 of section 580 "for seizing and forfeiting bread or other articles when of light weight or short measurement," and sub-section 1 of section 583 "for regulating the assize of bread." In the case of *Regina vs. Nasmith* (2 O. R., 192) a by-law of the City of Toronto was held valid, which provided that (1) all bread sold or offered for sale in the city of Toronto shall be in loaves of one pound, one and one-half pounds, two pounds and four pounds respectively; (2) the weight of every loaf of bread sold or offered for sale in the city of Toronto shall be stamped thereon; (3) all bread offered for sale of any less weight than the weight fixed by this by-law shall be forfeited."

Assessment of Railway Bridge.

361—T. P. M.—An international railway bridge joins the township of A, and the state of M. U. S. A. Will you kindly advise me if the bridge or a part of it can be assessed?

It is only the land occupied by the railway company that is assessable and not the superstructure. A bridge is part of the superstructure of a railway and is, therefore, not assessable. See *Great Western Railway Co. vs. Rouse*, 15 U. C. Q. B., 168; *London vs. Great Western Railway Co.*, 25 U. C. Q. B., 570; *Grand Trunk Railway Co. vs. Pt. Perry*, 34 C. L. J. N. S., 239; and section 31 of the Assessment Act.

Collection of Tenant Defaulter's Statute Labor.

362—SUBSCRIBER.—Last year A had a farm rented from B with the understanding that A would perform the statute labor for same. He

neglected doing so. The amount of his labor was not charged against him in his taxes in the fall, the pathmaster failing to return the labor list to the clerk within the time specified by law. The pathmaster has since returned A's labor undone. A has gone out of the country and B is this year working the farm. Who is liable for the amount of the labor?

We are of the opinion that the road in this municipality should not lose the benefit of the statute labor. In settling with his tenant prior to his leaving the place, B should have seen that A had performed the statute labor, or if not, that he should be allowed by A sufficient to indemnify him for his loss and trouble in having to perform it. The amount of this statute labor should be placed on the collector's roll for the municipality for the year in which default was made, or the year following, against the lands of, and collected from B.

Vote Necessary to Carry By-law to Build Sidewalks in Village.

363—J. M. A. W.—Would you kindly inform me what is necessary to carry a by-law for raising money to build sidewalks in villages? Our council submitted a by-law for that purpose. The total number on the list entitled to vote is 208. The number of ballots cast was 99. There were 93 for and 5 against and one spoiled ballot. Would this by-law be defeated?

Since this is not a bonus by law, its carrying is not dependent upon the conditions mentioned in sections 366 and 366a of the Municipal Act (the latter section was enacted by section 8 of the Municipal Amendment Act, 1900). The assent of a majority of the electors voting on the by-law is sufficient, therefore we are of the opinion that, so far as the electors are concerned, this by-law is carried.

Compelling Stationing of Watchman at Railway Crossing—Power of Council to Sell Burying Grounds.

364—R. C.—1. What steps can the council take to compel the G. T. R. company to place a watchman at a dangerous crossing on one of the principal streets?

2. The council has a deed of each of two old burying grounds, in which burials have been prohibited, (a cemetery just outside of the village limits having been opened). What steps can the council take to have the bodies removed, or can they, the members of the council, remove the headstones to the cemetery? The council requires these two places for parks, and would like to fit them up. The council procured a piece of the cemetery in which to bury remains of those who do not wish or care to obtain plots.

1. If the council and the railway company cannot amicably agree as to the placing of a watchman at the crossing, the council should report the matter to the railway committee of the Privy Council, urging upon the latter the dangerous condition of the crossing, and that a watchman is necessary in the interests of the public safety, and we have no doubt that the railway committee will see that this element of danger is removed.

2. We presume that these lands were acquired by by-law of your council, passed in accordance with the provisions of the Municipal Act then in force. The Municipal Act, as far back as 1868, has con-