

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.

Claim for Hay on Lot Sold at Tax Sale.

268.—H. D.—In the township of Olden, the council bought at a land sale a lot sold for taxes. They then sold it to a ratepayer in township, but ratepayer could not get deed for it for a year and a day. Another party had for three or four years been cutting hay on lot; he went on as usual this year and cut and drew off hay. The party who bought lot forbid him, but he paid no attention. Can party that bought lot claim hay, and how?

The purchaser may sue for use and occupation of the land, and claim what such use and occupation are worth. He was entitled to the use of the land, and therefore is entitled to recover the amount which he lost by being deprived of the hay.

To Compel a Collector to Make Returns.

269.—C. A. R.—Our collector gave to the son of the school treasurer, No. 2 section, \$32.00 more than his levy. Collector says council may look after school treasurer for the money, as he will not pay on the ground that he has cashed orders and the council knew it. He will go as witness. Which of the two should the council take legal proceedings against?

2. If the collector, will we sue to the division court, or send sheriff?

3. If the council pass a by-law in issue debentures to pay off county debt, must vote of ratepayers be first taken?

1. Against the collector.
2. An action may be brought or a warrant may be issued directly to the sheriff. See section 231 Assessment Act.

3. By-laws for raising money not required for ordinary expenditure except for drainage or work chargeable entirely by local assessment, must receive the assent of the electors, except in the case of counties which may raise a sum not exceeding \$20,000 in a year, above the sum required for ordinary expenditure. See section 344, Municipal Act.

Bonus Cannot be Granted.

270.—J. F. W.—Can the present council grant one hundred dollars per year to any factory for ten years, without a vote of the property owners?

Council cannot grant aid to factory, either with or without vote. See section 320, Municipal Act, and 21, Municipal Amendment Act, page 547.

Council not Liable for Obstruction in Stream on Private Property.

271.—G. H.—The Saugeen River runs through the township of Normanby, and at lot 20, Concession 5, divides into three branches,

the main stream running west, and the two other branches northwest, crossing the road and running through south part of lot 20, in the 6th concession. About eight rods from where the river divides it is obstructed by trees, stumps, brush etc., by natural causes of which the owner of the land had no control. The owner of lot 20, in the 6th concession, claims that his land is injured every spring in consequence of such obstructions, and threatens to sue for damages, as some of his land is carried away. The council is willing to remove obstructions, but the owner of the land where obstruction are found, threatens to take council up for trespass when removing obstructions and placing same on his land. What steps should the council take of enforcing the removal of said obstruction?

The facts as stated above do not show any neglect or omission of duty on the part of the council, and why should it interfere. Nothing is shown to justify or warrant the council in interfering.

Cost of School Arbitration.

272.—S. M.—I will draw your attention to the July number of THE MUNICIPAL WORLD question drawer No. 231, respecting the appointment of an arbitrator. Since then, the arbitrators having met, and after hearing the evidence decided to leave matters as they were, and form no new school section. At the same time they decided that the cost of arbitration be paid by the municipalities. Could they, the arbitrators, legally do so? Or is there any way that the municipalities can get out of paying for the cost of the arbitration?

Section 84, of the Public Schools Act, 1896, provides, in making their award the arbitrators shall among other things determine the liabilities of the party concerned for the cost of the arbitration, and such determination shall be final and conclusive.

Sale of Road Allowances.

273.—W. H. N.—Have municipal councils the right to sell road allowances or any portion thereof? If so, are they compelled, in the event of the ratepayers petitioning them to repurchase the same, at any future time?

Yes, under certain circumstances. See sub-section 9 and 10 of section 550. The council is not bound to repurchase a road which has been sold.

Reeves Qualification—Supposed Error in Roll.

274.—P. S.—In our municipality, wild land is assessed at one dollar per acre, and cleared land at two dollars per acre. A is assessed for a lot containing 180 acres, sixty acres cleared land, no personal property. The total is carried out by assessor as \$400, which would qualify A for office of reeve or councillor. Is A qualified, when the amount, if carried out correctly, will not make \$400?

If it is apparent on the face of the roll that there is an error in the addition of the values of the separate parts, A would not be qualified, but as there is only one parcel, how does the error appear on the roll? The assessor is not required to value cleared and uncleared portions separately. He is required to value each parcel, and then give the total value. See section 14 of Assessment Act. The roll as finally revised is conclusive, and it alone must be looked at to ascertain the assessed value, for the purpose of qualification.

Liability for Damages on Roads.

275.—W. W. T.—1. Is the municipality responsible for accidents on settlers roads, where statute labor has been performed?

2. How should the council proceed in taking over certain roads and bridges?

3. Is the council responsible for accidents on such roads before they are taken over by the council?

1. The liability of the municipality depends upon whether the roads mentioned have become public highways. Section 524 of the Consolidated Municipal Act, 1892, declares that any roads where in the statute labor has been usually performed, shall be deemed common and public highways, whether the roads mentioned have become public highways by reason of the statute labor having been performed on them is a question of fact dependent upon the circumstances, and the intention of the council. If these roads have been used for public travel, and statute labor usually performed upon them they would thereby become public highways and the municipality would be responsible for accidents caused by the negligence of the corporation in the same manner as upon other highways.

2. If the roads and bridges are public highways they are already vested in the municipality. If they are not public highways, or there is any doubt about it, you had better take the course provided by section 546.

3. No, unless they have become public highways, under the circumstances above stated.

Street Improvements—Members of Council not to Participate in.

276.—F. D. N.—Several ratepayers are having ditches fronting their property in the public streets, drained and filled up with earth. The council have agreed to pay forty per cent. of the expense thereof. Is such an agreement legal? Two of the men having the work done, are members of the Council Board.

If the work is being done for the benefit of the street, the agreement is not illegal, except as to the two persons who are members of the council. The agreement with them is void. See section 431, Consolidated Municipal Act, 1892. A member of a council may be legally appointed a superintendent or overseer of roadwork, and may receive compensation for his services in that capacity. See section 479. But councillors should avoid entering into any contract, directly or indirectly, with the council of which he is a member.

Clerk may act as Deputy-Returning Officer in Townships and Villages.

277.—A MUNICIPAL CLERK.—Would it be legal for a municipal clerk to act as returning officer at a municipal election, and also to act as deputy-returning officer of one of the polling sub-divisions in the municipality?

The Municipal Act, section 136, contemplates the appointment of other persons as deputy-returning officers, except in the case of municipalities which are not divided into wards, when the clerk is authorized to perform the duties imposed in other cases upon deputy returning officers. Section 155, sub-section (3a), implies that