

Payment of Cost of Constructing Cement Walks in Village.

464—J. J. J.—We are an incorporated village and want to build cement sidewalks. Can the council build a cement sidewalk if a large majority of the ratepayers ask for it by petition? And can the council, when striking the rate for the year, include cost of sidewalk in taxes?

The council has power to build such cement sidewalks as it deems the needs of the public require, and pay the costs of so doing out of the general funds of the municipality. The cost of building these walks may be levied in one year, provided, in so doing, the council does not transgress the provisions of sub-section 1 of section 402 of The Consolidated Municipal Act, 1903. The walks may also be constructed under the local improvement clauses of the above Act (section 664 and following sections) and paid for by a frontage rate.

Copy of Drainage By-law May be Served—Status of Public and Separate School Supporters.

465—NEW CLERK—1. B township is constructing a drain under the Municipal Drainage Act, in which the township of A is interested to the extent of \$115.00. Of this \$50.00 is awarded against the municipality and the remaining \$65.00 against two farms. As the amount is so small, A township purposes not to raise debentures but to levy the amount as a special rate with this year's taxes. Will a by-law authorizing the levy of this special rate require to be published and advertised in the manner specified in section 21 of the Act (R. S. O.), or would it be sufficient to notify the two parties concerned?

2. A ratepayer who is a separate school supporter has purchased another farm which is more than three miles from the separate school. Can he withdraw this lot (No. 1) from the public school, he not living on it but on another which is within the limit of distance of separate school?

3. Can a Roman Catholic become a separate school supporter if his residence is more than three miles from any separate school?

4. A Roman Catholic has two parcels of land lying side by side, both being within three miles of a separate school. Can he be a separate school supporter in regard to one parcel and a public school supporter in regard to the other? i. e., can a man be both a public and a separate school supporter when all his property lies within the limit of distance of the separate school?

1. It is not necessary to publish the by-law as prescribed by section 21 of the Act, but if the council decides not to publish the by-law, it will have to serve copies thereof on each owner in the municipality assessed for a part of the cost of the construction of the drain, in accordance with the provisions of section 22 of the Act.

2. Yes, assuming that the separate school is located in the municipality in which the land is located, or a municipality contiguous thereto.

3. Yes, provided the separate school is located within the municipality in which his land is situated or in a municipality contiguous thereto.

4. We do not think so. If he gives the notice required by law he becomes a separate school supporter and then all his property becomes liable for separate school rates.

Payment of Cost of Watering Streets in Village.

466—M. R.—B is an incorporated village. The merchants and residents on Main street wish the streets sprinkled. Can the council proceed on petition to do the same and levy on general rate? If not, how must they proceed to have it done?

Sub-section 1 of section 686 of The Consolidated Municipal Act, 1903, confers this authority on councils in incorporated villages. The first part of the sub-section provides for payment of the cost of so doing, by a frontage rate, or a rate on the assessed value of properties benefited. The latter part of the sub-section is as follows: "but the council may charge the *general corporate funds* with the expenditure incurred in such sweeping, watering or lighting as aforesaid."

Minor Can Be Assessor—Time for Making School Assessment in Unorganized Townships—Assessment of Windmill.

467—E. J. P.—1. Can a minor do assessing for school sections? Is it lawful for him to do it, as I have heard a minor cannot do business in his own name?

2. Our own assessment was not done until May; is it lawful?

3. Can an assessment be made in July? If not, can the Court of Revision order a new assessment if they find the one that is made is not lawful.

4. Can a windmill be assessed which is used for grinding and cutting small logs under clause 16 of section 5.

1. We are aware of no legal objection to the performing of the duties of an assessor by an appointee to that office, who is under the age of twenty-one years.

2. Yes. Section 27 of The Public Schools Act, 1901, fixes no definite time for the return of an assessment roll, or the making of an assessment in a school section in an unorganized township.

3. We know of no legal objection to an assessment in a locality of this nature being made in July. This being our opinion, it becomes unnecessary to reply to the last part of this question.

4. By clause (d) of paragraph 7 of section 2 of The Assessment Act, 1904, the word "land" is made to include "all buildings or any part of a building, and all structures, machinery and fixtures, erected or placed upon, in, over, under, or affixed to land." A windmill is a fixture erected on land, but if it is used for farming and manufacturing purposes, as appears to be the case in this instance, we are of opinion that it is exempt from assessment and taxation under paragraph 16 of section 5 of the Act.

Cost of Making Concrete Pipe.

468—D. M. V.—Our municipality has bought concrete pipe moulds, and intends to have pipes made in the township at so much a piece, the municipality to furnish the cement and the maker sand, gravel, etc. Sand and gravel are plentiful, and easy to get. Could you tell us about how much a piece of 12-in. and 18-in pipe we should pay for making?

A definite estimate is dependent upon data not given. With all material on the ground, an average day's work for two men would be twelve or fifteen pipe, in 2½ foot lengths and 12 to 18 inches diameter. A fair price to pay would depend also upon the local price of labor, cost of gravel, number of pipe to be made and the details of agreement with the maker.

Herding of Cattle on Highway.

469—S. A. T.—The township of W has a by-law forbidding all live stock from running at large on the highways, but there are some farmers who have small boys from the "Home," and they send these boys to herd the cattle upon the streets and highways of the township. Now a herd of these cattle coming into the villages—where the citizens take a pride in keeping a portion of the streets opposite their dwellings nice and clean—tramp and otherwise injure the streets, and are a nuisance and an annoyance, and the owners of these cattle when notified to keep their cattle off the streets, refuse to do so, saying they have a perfect right to herd their cattle on the streets and highways.

Would the overseer of the highways be justifiable in causing these cattle to be impounded?

If animals are allowed to be herded or tethered upon the highways, has a municipal council power to pass a by-law forbidding cattle to be herded or tethered upon the highways, under a penalty of being impounded?

Section 546 of The Consolidated Municipal Act, 1903, empowers councils of townships to pass by-laws for restraining and regulating the *running at large* of cattle, and this township has apparently passed a by-law of this kind. If cattle are on a highway, in charge of any person competent to look after them they are not running at large contrary to the provisions of the by-law, nor can they be impounded for so being on the highway. We