

QUESTION DRAWER

SUBSCRIBERS only are entitled to opinions through the paper on all questions submitted if they pertain to municipal matters. Write each question on a separate paper on one side only. When submitting questions state as briefly as possible all the facts, as many received do not contain sufficient information to enable us to give a satisfactory answer.—Ed.

SUBSCRIBER.—1. Has a collector full power to go on and seize for all taxes for 1893 before the 14th of December, without consulting a lawyer or employing a bailiff?

2. Has he the same power after the 14th, if he gets no extension of time from the council?

3. If he gets extension, does it give him full power to do so.

1. The collector has full power to collect all taxes mentioned, and to enforce payment by seizure at any time after he has received his roll from the clerk, and after the expiration of fourteen days from the time he has made the demand or served the notice on the ratepayer mentioned in section 123, Consolidated Assessment Act, 1892. Under the circumstances mentioned in sub-section 2 of section 124 of said act, the collector can seize for taxes before the expiration of the fourteen days from the date of the service of such notice or making of such demand.

2 and 3. Although the sections of the act are not perfectly clear as to this point it seems quite settled that the collector can perform all the duties pertaining to his office, including the right to distrain for unpaid taxes, so long as he holds the office, and his roll is not returned, whether the time for returning the roll has been extended or not.

J. N. R.—We have one by-law on all gravel pits. An owner of one pit is going to stop us from going in his pit. Is there a by-law necessary for each pit, and what steps have we to take to get on same?

It is difficult to answer this question without a perusal of the by-law referred to by our correspondent. However, we do not see that it makes any difference to the council's rights whether there be one by-law relating to all gravel pits or a by-law relating to each pit in particular, so long as the general by-law accurately describes each pit. Before we can answer the last part of our correspondent's question, we must know whether the right of entry of the council upon the lands of the party objecting, and the price or damage to be paid to him by the council, have been agreed on between the parties concerned or settled by arbitration under the Municipal Act.

E. G.—1. I own lots 5 and 6 in township; lot 5 is in S. S. 5, lot 6 in S. S. 4. A by-law was passed in April changing lot 5 to S. S. 4. A by-law was passed in June to issue debentures for building a school house. Said by-law was not satisfactory hence no loan was secured. This by-law was repealed the following January and a new one passed to issue new debentures. In the meantime school house was built, and the trustees borrowed money, some of which was paid for building and some used for other purposes. This money was borrowed before December last. Q.—Is lot 5 still liable to pay taxes to S. S. 5?

2. When the roads are all blocked with snow in Algoma, is the council compelled to open them on demand of the mail carrier, or on the demand of any other person or persons?

1. Assuming that the by-law, changing lot 5 from S. S. No. 4, was passed on the 30th April, 1892, and is a valid by-law, lot 5 is no longer liable to pay its portion of the general school levy in S. S. No. 5.

2. We do not think so.

A. C.—A bridge was built across a river in our municipality by the government and kept in repair by the government, and never assumed or a dollar spent on it by the municipality. Last spring it was in a very bad state of repair, and in the month of June fell down, although I understand a person had at the time a grant of money from the government to repair the same, but did not commence to rebuild until the 1st August, and was not completed until the first of October. During the time there was no bridge, the travelling public had to pay a person who lived right there—in fact I may say, the person who had the contract to build the bridge, to take them across in a boat.

The mail contractor who had occasion to cross this stream three times a week each way, in making his trips between offices, had to pay the fee to get across, from the time the bridge went down until the new one was built. He did not ask any advice of the council in the matter until about the middle of February, when he presented the council of the municipality in which the bridge is situated with a bill for damages for the amount he had to pay. Has the council a right to pay the bill?

2. Has the municipal council power to abolish the dog tax in the month of June, after assessment is made? The ratepayers neglected to petition council at March meeting.

1. We do not see that the council is in any way liable to the mail carrier.

2. We see no reason why the council should not pass a by-law in the month of June, providing that dog tax should not be levied in the municipality in the current year and on the presentation of the necessary petition, but since the assessment is made, it might be as well to defer the coming in force of the by-law until the 1st January, 1894.

LARES.—1. Should a tax collector fail to make his final return by the date specified by by-law of council, what action should be taken in the matter and who is the proper person or persons to take such action?

2. What can be claimed as being exempt from seizure for taxes, providing the party is the proper person to pay such taxes?

3. Kindly give name and address of reeve of the township of Flos in your next issue?

1. Unless the council see fit to extend the collector's time or to authorize him to proceed further with the collection of the taxes, they may, by resolution, authorize some other person in his stead to continue the levy and collection of the unpaid taxes, in the same manner and with the same powers provided by law for the general levy and collection of taxes (Consolidated Assessment Act, section 133, sub-section 1), and such resolution or authority shall not alter or affect the duty of the collector to return his roll, and shall not, in any manner, invalidate or otherwise affect the liability of the collector or his sureties. (Sub-section 2 of said section.)

2. If the person who is the proper party to pay the taxes, is actually assessed for the premises, in respect of which they are payable, and his name also appears upon the collector's roll for the year as liable therefor, none of his goods and chattels are exempt from seizure other-

wise the goods enumerated in sec. 2 of Chap. 64, R. S. O., 1887, are exempt.

3. W. A. Sneathe, Elmvale.

CLERK.—Can a bondsman for the collector or treasurer qualify as councillor?

No.

J. M.—There is a road on the 11 blank concession running between lots 14 and 15 on the 10th, and lots 14 and 15 on the 11th. The 10th being the open concession, but impossible for the township to make on account of swamp. The man living on lot 13, about 15 years ago bought 40 feet on a road from the man that owned lot 15 on the 11th concession and gave him his price, and also bought his own cedar and fenced the road across the whole end of lot 15 according to agreement, and has an old agreement to that effect. The man living on lot 13 having no other road the men on lots 14 on 11 and 14 on 10 and lot 13 on the 11th all want the road, that is four in number. The council about 15 years ago accepted that the road be made gave those men their road labor on it ever since, when it was needed. Now the son of the man that signed the agreement giving the road through lot 15 on 11 drew away a part of the fence that those men put up and told them to look for another road and put a fence across the road with a gate. Now can the council compel him to clear the road? or is he entitled to anything? or could he be fined for so doing? if he can how much for each offence after he is notified by the council? The men using the road notified him in writing to open the road, and he told them no, and he would make them close the gate. The land is of no value for farming use.

Provided there are no reservations in favor of the grantee of the road or his heirs in the agreement referred to by our correspondent. This seems to be the case of a distinct grant and dedication of land to the public for the purposes of a public road. And since the road has been assumed by the municipality and public money and statute labor spent and performed thereon, we do not think any one has the right to build a fence across it, or otherwise deprive the public of its use. It seems to us that the party offending could be proceeded against as a trespasser, or if he persists in his line of conduct indicated for placing and maintaining a nuisance in the road.

F. C.—We have a by-law that reads as follows:—Every person who is within the town, the owner, possessor or harbinger of a dog, shall pay an annual tax of two dollars for every such dog. This does not apply to kennels of pure bred dogs, but only to the general run of dogs. There seems to be some doubt about the council having power to charge two dollars per dog, but under section 489 sub section 15 of the Municipal Act, 1892, the council claim the right to tax a dog two dollars or any other sum as they may see fit.

If this position of the council is correct, then what about section No. 1, chapter 62, statutes of 1890?

We think the better opinion to be, considering the enactments referred to by our correspondent, together, that the former confers the authority on councils to pass by-laws for the imposition of a tax on dogs, and that the latter fixes the amount of such tax at \$1 per dog, but it might be held, in view of the fact that the latter section does not in express terms limit the tax to \$1 per dog, that the tax must be at least \$1 and as much more as the council saw fit to by by-law to impose.