

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.

**Township Council Can Make Grant to High School—
By-Law Need Not Be Submitted to Electors—
Township Has Right to Land Purchased
for Road.**

479.—SUBSCRIBER.—Our township municipality is not in any high school district. The high school board of a high school located in a corporate village in our township recently waited on the council and requested it to make them a grant of \$500, to be applied by them towards defraying the general expenses of maintaining and conducting the school.

1. Would it be legal for the township council to make the above grant?

2. Is there any authority enabling the township council to legally submit a by-law to the ratepayers of the township asking their consent to the making by the council of such grant to the above mentioned high school board in each year in the future?

3. In or about the year 1878 the council of our township purchased land from the owners of adjoining farms for the purpose of establishing a blind line, a width of one and one-half rods off each lot. No conveyances were made by the owners of the land sold to the municipality, but each owner from whom lands were purchased was paid in full the price agreed on for his lands. The greater part of this blind line has been opened, graded, gravelled and put in a condition for travel, and statute labor has been continuously performed upon it. About three years ago A purchased the farm of one of the owners who had so sold a portion of his land to the municipality, receiving a conveyance from his vendor which did not except from the land sold the portion previously disposed of to the municipality for road purposes. At the time of A's purchase a fence was erected along the limit of the purchased road, one and one-half rods in upon the land he bought and had been so erected for a number of years. The land bought for road purposes off this farm had been chopped and prepared for grading sometime previous to the date of A's purchase. A now claims that the township has no right to the portion of land sold off his farm for road purposes, and last November moved his fence out one and one-half rods to the original line. Who is the legal owner of the land claimed by the municipality for road purposes, A or the township?

4. If you answer that the township is the owner what proceedings should they take to compel A to move back his fence and establish their title to the land?

1. Subsection 4 of section 587 of the Municipal Act empowers the councils of counties, towns and villages to pass by-laws for making grants in aid of any high school or collegiate institute, or to build, preserve, enlarge or improve any high school or collegiate institute in any adjacent or other municipality.

2. No, and it would be improper to do so.

3. We are of the opinion that there was a dedication in effect of the lands referred to for the purpose of a road, and that, under the circumstances, the municipality is entitled to the lands as against A. If

the land which A claims was subject to a mortgage at the time of the purchase by the municipality, the rights of the mortgagee are not affected unless he was a party to the transaction.

4. An action may be brought to compel A to remove the fence.

Collection of Cost of Laying Granolithic Walk.

480.—J.H. M.—Our council has put down on one side only of one of our streets, a granolithic walk, assessing property owners who own property on one side of this street (as the same sidewalk is on), other side being church property and vacant lots, 40 per cent of the cost of same. Passing a by-law during the progress of the work, or at least after work was commenced, such by-law being carried by votes of all members of the council with no opposition. This was done without a petition of said interested property owners. In fact they objected to having it done—except one or two of the owners. Before making up the collector's roll the reeve advised me to base the cost at one dollar per square yard and, supplying me with the measurements of the different respective lots, we made up the square yards for each individual, adding the amount to the other taxes in each case in the roll and making out a statement of the measurements and appending to roll on a separate sheet. What I want to know is this:

Can the collector collect these amounts in the regular course, or would it be better to sue (as I believe the parties refuse to pay), or is the by-law illegal because of not being petitioned for by a sufficient number of the interested property owners on such street, or passed after commencing work?

We do not think the procedure adopted by the council in this case was legal. The council might, by an affirmative vote of three-fourths of the members, have passed a by-law under section 678 of the Municipal Act to construct a granolithic sidewalk upon the street in question if it is a leading or principal business street, and to raise, by way of a loan on the credit of the debentures of the municipality, forty per cent. of the cost of the construction in addition to the part of the cost to be provided by the municipality, and to assess the remainder of the cost falling on the property benefited in the manner provided in the Municipal Act as to assessments for local improvements in other cases. Subsection 2 of section 678 provides the manner of raising by assessment the remainder of the cost, that is the sixty per cent. Section 665 declares that the special rate to be assessed and levied shall be an annual rate according to the frontage thereof upon the real property immediately benefited by the work or improvement, and the property owners are entitled to the right of appeal from the

assessment, as provided by clause (a) of subsection 1 of section 664 of the Act. The by-law should therefore provide for holding a court of revision. We do not understand where the reeve found any authority for charging a property owner one dollar per square yard. The frontage should be ascertained and the sixty per cent. of the cost of the work falling upon the property owners should then be levied according to each man's frontage. Then, as to the method of enforcing payment of the assessments, we think they must be collected in the same manner as other taxes and that is by a demand for them in the usual way, and, if there is no distress out of which they can be made, the land may be resorted to. They cannot be recovered by action until the special remedies for making them either out of the owner's chattels or his lands are exhausted.

Sale by Municipality of Lot Purchased at Tax Sale.

481. W. E. W.—At a tax sale some years ago our council bought in a village lot which did not realize the amount of arrears of taxes standing against it. Through some error this lot has been omitted from the list of lands liable to be sold for taxes. Can the council make a private sale of this lot or must it be advertised in the usual way?

Assuming that your council purchased this village lot under the authority of subsection 3 of section 184 of the Assessment Act, and in accordance with its provisions, it has the right to sell the lot by private sale at any time within seven years from the date of the purchase. It would not be a proper proceeding to include it in the list of lands liable to be sold for taxes or to advertise it for sale in the usual way.

Duties of Auditor.

482.—W. Y. X.—1. Should auditors report every thing in writing, for instance, an error of eighteen cents in the collector's roll, paying interest without any motion or by law from council, etc.?

2. In printing copies of the report for circulation is it necessary to give all small errors such as mentioned in question 1?

1. Yes. Everything that affects the accounts of the corporation. Subsection 1 of section 304 of the Municipal Act requires the auditors to "examine and report upon all accounts affecting the corporation, or relating to any matter under its control or within its jurisdiction, etc." Auditors cannot be too exact in performing the duties required of them by law, and no matter affecting the accounts of the corporation can be so minute as to be unworthy of their attention.

2. Yes. The copies printed and promulgated, as required by the Municipal Act, should be EXACT copies of the abstract and report filed with the clerk by the auditors. (See section 306 of the Act).

15th December Statement.

483.—D. L.—Would you give us the proper legal heading and certificate which should be attached to the township treasurer's financial statement which has to be issued to the electors