

QUESTION DRAWER

Subscribers are entitled to answers to all Questions submitted if they pertain to Municipal Matters. It is 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 will be published unless One Dollar is enclosed with request for private reply.

Collection of Arrears of Taxes.

461—J. B. B.—A farm was rented before the time for collecting taxes. The crop and everything on the farm was seized and sold for debt and nothing left for the collector to get next year. The farm was sold under the mortgage, the taxes still unpaid for the previous year. The same was allowed to stand for ten years. Is the land still liable to be sold for the taxes due ten years ago or are the taxes outlawed?

We do not understand why the arrears of taxes were not paid at the time the land was sold under the mortgage. Mere lapse of time does not release the land from liability to be sold to realize the amount, but there may be some other element in the case which would render the sale illegal. As to this, however, we cannot say, not having sufficient particulars.

Power of Village Council to Raise Money for Putting Furnace in School House

462—J. E. H.—The Board of Education in a village which is a part of a union school section including some outlying township territory have asked the council of the village for some \$2,000 to put in a new furnace instead of the old one in the public school, and to provide for ventilation as required by the Departmental regulations.

1. Can the council pass a by-law for this purpose without submitting it to the ratepayers?

2. Would the words in section 70, chapter 292 R. S. O., 1907, "for the erection of a school house, or any addition thereto," cover the kind of improvement referred to above?

Sub-section 1 of section 76 of the Public Schools Act, 1901, was repealed by section 5 of chapter 32 of The Ontario Statutes, 1903, and a new sub-section substituted therefor. The substituted sub-section, as amended by section 42 of chapter 53 of The Ontario Statutes, 1906, reads as follows: "The municipal council of any urban municipality may, on the application of the board of public school trustees, pass a by-law for borrowing money by the issue and sale of debentures for the purchase and enlargement of a school site, or for the erection of a school-house or any addition thereto, or *repairs or improvements of the school property*, or for the purchase or erection of a teacher's residence, which debentures, and the money to be raised annually therefor should be chargeable only upon the property of ratepayers who are supporters of public schools. Where the municipal council refuses to issue such debentures to raise or borrow the sum required for the said purposes, then the question shall be submitted by the municipal council, if requested by the board of trustees, to the vote of the electors qualified to vote under the Municipal Act for the creating of debts, and who are supporters of public schools, in the manner therein provided, and on the assent of such electors being obtained, the council shall issue such debentures to raise or borrow such sum, to be chargeable as aforesaid." Sub-section 3 of section 76 provides that "Application for the issue of debentures for school purposes by the trustees of urban municipalities to which part of an adjoining township is attached shall be subject to the provisions of this section." We are of opinion that the words "repairs or improvements of school property" include the placing of a furnace and ventilating

apparatus in the school house, and that the council should be guided by the provisions of sub-section 1 of section 76 of the Act above quoted.

2. The Public Schools Act is now chapter 39 of The Ontario Statutes, 1901, and the section referred to is now section 74, but it has no application to cases of this kind. It applies only to the issue of debentures in RURAL school sections.

Opening Original Road Allowance.

463—A. R.—An original allowance for road (a concession line) in this township, owing to a wet marshy place thereon, has been left unopened and is enclosed by the several owners adjoining.

A number of ratepayers who would be greatly benefited if this road was opened and made, have petitioned the council to open and make it fit for travel, and have offered to do considerable gratis labor on it.

As the road is in a state of nature covered with timber, it will be costly to make a road for all purposes, but the petitioners suggest that the by-law to open it be passed so that they may expend their gratis labor and make it fit for winter travel, *only* for the present.

1. Can the council pass a by-law opening the said allowance for road for winter travel only?

2. If the council passes by-law opening road for winter travel, would the expenditure of gratis labor thereon render the township liable for damages in case of an accident thereon?

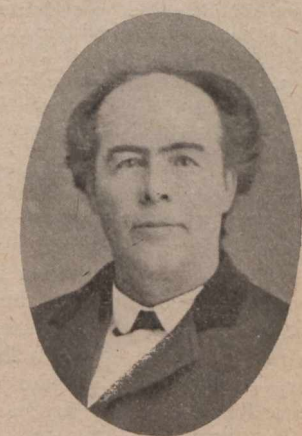
3. Could the residents interested work their gratis labor on said road allowance by consent of the council without a by-law being passed by the council for opening it?

1. The council has no authority to open this road for winter travel only. If it opens it at all, the road must be put in a reasonably safe condition for persons using it, and maintained in that condition all the year round. The council is not bound to open the road allowance, nor should it do so simply to accommodate one or two ratepayers.

2. If the council passes a by-law to open this road as suggested, it will be responsible for its being kept in repair, and for damages arising from accidents caused by its not being kept in a reasonable condition of safety.

3. The residents may do this, if they so desire, but if the road is in this way opened for travel, the council will be liable for damages occasioned anyone by reason of its lack of repair.

(Municipal Officers of Ontario)



GEORGE P. HUGHES
CLERK VILLAGE OF TOTTENHAM.

Mr. HUGHES was born in the Township of Tecumseh 73 years ago, was for many years deputy-reeve of Adjala, and was appointed clerk of that township in 1874, which position he retained until he removed to Tottenham, where he was appointed clerk on its incorporation, thus holding office for 33 consecutive years. He was appointed magistrate in 1865, and has held many other positions, such as conveyancer, notary, commissioner in the Queen's Bench, postmaster, banker, etc. For some years he had one of the largest conveyancing businesses in the County of Simcoe.