

## 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, unless \$1 is enclosed with request for private reply.

## Poundkeepers and Notice to Fenceviewers.

396. POUNDKEEPER.—Re R. S. O., 1897, chapter 272, section 20 and 21. Is it the poundkeepers' duty to notify the fenceviewers of their appointment? If not, whose duty is it?

The Pound Act does not make it the duty of any one of the parties interested or affected to notify the fenceviewers of their appointment. Under section 20 the owner, distrainer and poundkeeper are entitled to appoint a fenceviewer each and section 21 makes it the duty of the fenceviewers "within 24 hours after notice of their appointment as aforesaid," (that is after they are appointed by each party under section 20) to determine the matters in section 21. After the fenceviewers are appointed by each of the parties it is their duty to arrange a meeting.

## Non-Resident Councillors—Leave of Absence, Resignation.

397.—T. W. S.—John Brown a member of a village council removes therefrom and takes up his abode in a neighboring town 18 miles distant, embarking in mercantile business.

1. Can the village council grant John Brown leave of absence, and if so, for what period?

2. If the village council cannot grant John Brown leave of absence would his seat become vacant forthwith, and would the council have to fill the vacant seat?

3. Provided John Brown attended any of the meetings of the village council before the council for the new year was formed, even though he was granted leave of absence, or not, would the acts of the council be legal?

4. The location that John Brown fills at the present time would be against him being legally nominated a member of the particular village council in question, and the fact of him having taken up his permanent abode in a neighboring town, would, methinks, be a proof that his seat was now vacant, and that the council would be compelled to declare it vacant, and cause it to be filled in the legal way, and that they would have no authority to grant a leave of absence, neither would they wait for him to absent himself for three months in succession, before declaring his seat vacant. The end of the year is near at hand, and the principal council work done, thus making it quite easy for the council to do the work nicely without John Brown's presence, if such could be done legally.

1. Yes, for such period as they may see fit, by a resolution entered on the minutes.

2. No, not until he has absented himself from the meetings of the council three months without leave of absence granted as above.

3. Yes.

4. This question is answered by the above. See Sec. 207 of The Municipal Act.

## Municipal Clerks and Dominion Voters' List.

398.—F. J. C.—It is understood that the Dominion Government at the last session changed the law so that the municipal clerks now furnish the voters' list instead of the clerk of the Peace. Is this so?

No.

## Poll-Tax By-law—School Trustee Nominations and Election.

399.—T. J. R.—1. Is a by-law necessary to collect poll-tax in a municipality?

2. Is it \$1.00, or \$2.00?

3. Public school nominations are not held on same day as municipal nominations. When two men are nominated to fill a vacancy and we do not want a show of hands, at what time in the proceedings must the poll be demanded?

1. Sec. 97 of the Assessment Act provides that the tax therein mentioned (generally termed "poll tax") "shall be levied and collected at such time, by such person, and in such manner as the council of the municipality may, by by-law, direct."

2. \$1.00.

3. You do not say whether the poll is or was to be held in a rural or an urban municipality. Different statutory provisions apply to each, and we must have the above information before giving a reply to this question.

## Selection of Jurors.

400.—T. J. W.—In selecting jurors under section 22 of the Jurors' Act for a town divided into wards, is it proper to treat each ward as a separate municipality?

2. Supposing there are three wards and thirty jurors were required to be drawn from the town, is it proper to select ten from each ward, irrespective of the initial letters of their names. In our town we have three wards and the clerk has adopted the practice of selecting an equal number from each ward, and as some wards have far less names commencing with the same letter than others. We are selecting jurors whose names commence with different initial letters in each ward. In one ward we were drawing jurors whose names commenced with "W," in another ward the names commence with "H" and so I contend that the jurors should be drawn without regard to wards or polling sub-divisions, and that the names of jurors commencing with the same initial letter should be exhausted in all the polling sub-divisions before commencing with the next letter.

1. No.

2. No. We are of opinion that jurors should be selected from the municipality as a whole. All the names commencing with one initial letter should be exhausted before selecting from those beginning with another.

## Income Voter—Payment of Township Councillors.

401.—QUERCUS.—1. A is in receipt of \$700 income. Can he vote? and what amount is taxable? Is he liable for statute labor or poll-tax?

2. Is land taxable where there is no road leading to it?

3. Are you acquainted with any council which holds its meetings in the evenings and has no mileage and yet collects indemnity?

1. We are not in a position to answer

this question unless you let us know whether the income you mention is derived from A's personal earnings, or from other sources or from the two combined. See Sec. 7, sub-section 26 of the Assessment Act.

2. Yes.

3. Sec. 538 of the Municipal Act, sub-section 1, provides that councils of counties and townships may pass by-laws "for paying the members of the council for their attendance in council, or for paying any member while attending on committee of the council, at a rate not exceeding \$3 per diem, and five cents per mile necessarily travelled (to and from) for such attendance. Sub-section 2 provides for the remuneration of aldermen in certain cities. We know of no legal reason why councils should not hold their meetings in the evenings if they so desire.

## Collector's Seizure—Limitation—When Collector's Duties Commence.

402.—SUBSCRIBER.—1. Can collector seize goods in 1899 for taxes on the roll for 1888?

2. Is there a fixed date to start collector out collecting on roll?

1. No, because the tax appears to be 11 years in arrears.

2. Yes, on or before the 1st day of October, or such other day as may be prescribed by by-law of the local municipality. See section 131 of the Assessment Act.

## Quarantine Expenses—Who to Pay.

403.—P. Mc. A.—There was a case of diphtheria in our township. The man employed his own family doctor to attend the patient. The doctor notified the Board of Health and the medical health doctor placarded the place. He was not asked to attend the patient. His doctor used 8 bottles of antitoxine and other medicines, for which he asked the council to pay. This man says he took all precautions to prevent the disease from spreading. For this reason he claims the township is responsible for the medicine used. He does not ask the township to pay the bill as a case of charity, but says the council is responsible. The council claim they are not responsible for the bill as the man is well able to pay it.

1. Is the council responsible for the bill?

2. Would the act of the medical health officer in placarding the house leave the township liable?

3. I see nothing in the statutes that leads me to believe that the township is responsible for the bill.

I had a part of my fences burnt by fire from G. T. R. trams. In a few days I sent in my claim. They have acknowledged receipt of my letter, said they would attend to it in a few days. They have not done so as yet. The date of the fire was August 15th, 1899.

4. Is there a time fixed by statute when I must take action against the Grand Trunk if they do not settle this claim in proper time?

5. What course am I to take if I have to go to law with the Grand Trunk?

1. No.

2. No.

3. We are of the opinion that you are correct in your belief.

4. Yes. Six months next after the time when such damage was sustained, etc. See section 27, chap. 29, R. S. O., 1896, and section 42, chap. 207, R. S. O., 1897. This is in accordance with the decisions of the court up to the present time.