

Question Drawer.

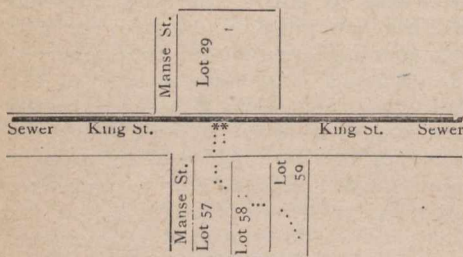
Subscribers are entitled to answers to all Questions submitted, if they pertain to Municipal Matters. It is particularly requested that all facts and circumstances of each case submitted for an opinion should be stated as clearly and explicitly as possible. Unless this request is complied with it is 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.

The Municipality Not Liable.

1.—J. S. E.—I. Enclosed you will find a diagram illustrating a local difficulty. The occupant of lot 29, on the diagram complains that he has been subject to an overflow in case of an extreme freshet, notwithstanding the presence of the sewer, which has now happened twice owing to obstruction of sewer. He wants the long unused and filled in culvert opened again, in which case the overflow or surface water would be deflected across lots 57, 58 and 59. He has threatened a suit to force our council to open said culvert, in which case the council would again be threatened by the occupants of lots 57, 58 and 59. Can he force our council to open said culvert, in the presence of the fact that the sewer serves for all but extraordinary occasions?

2. And if he can, what recourse may we have from the owners of the opposite lots for deflecting the water upon their lands?



Black line represents sewer.

Both ** on sewer line are manholes.

Double dotted line across street is remains of old culvert filled in for fifteen years.

Dotted streak through lots 57, 58 and 59, is old natural watercourse.

We are of the opinion that the owner of lot 29 has no cause of action against the municipality upon the facts as stated by you.

Examination of Destitute Lunatics.

2.—W. D.—Is a township municipality, in Parry Sound, liable for expense of examination of a boy for lunacy when father is living and able to support him? The boy has been moved to jail and the sheriff and medical examiner have made the demand on the township council.

We are of opinion that your municipality is not liable for this expense, unless the head of the municipality, on application being made to him, is satisfied that the insane person is in destitute circumstances, and notified two medical practitioners to make the required examination. See section 11, of chap. 317, R. S. O., 1897, which applies to "any municipality within the Province of Ontario."

Submission to Electors of Statute Labor By-Law.

3.—C. H. R.—Our township is submitting a by-law to the electors to commute the statute labor of the municipality. No doubt there

will be some changes suggested as they are holding public meetings throughout the township. Will the council have power to make such at the third reading of the by-law after the people have voted as it is represented to them?

The Municipal Act makes no provision for submitting such a by-law as this to the ratepayers, and it is, therefore, improper to submit it to the vote of the electors. By the authority of sub-section 6 of section 561, of The Municipal Act, and section 101, of The Assessment Act, the council has power to pass such a by-law as this.

Submission to Electors of Statute Labor By-Law.

4.—J. R. W.—How is the proper way to take a vote on the statute labor question, by by-law or just a plebiscite?

We presume you mean the question of abolishing the performance of statute labor. Section 561, sub-section 6, of The Municipal Act, and section 101, of The Assessment Act, empower township councils to pass by-laws to entirely abolish statute labor. It is improper for a council to submit a by-law to the electors to vote upon, unless it is a by-law that must be submitted to them.

Time for Audit of Municipal Accounts.

5.—C. W. K.—Will you please inform me what date is fixed by law for auditing the municipal accounts?

Sub-section 1, of section 299, of The Municipal Act, provides that every council shall, at the first meeting thereof, appoint two auditors. The latter part of sub-section 2, of section 304, of the Act provides that the auditors shall file the abstract of the receipts and expenditures, assets and liabilities of the corporation, and the detailed statement and reports prepared in such form as the council directs, in the office of the clerk of the council, within one month after their appointment.

By-Law Unauthorized.

6.—T. J. T.—Our town council are preparing by-law to be voted upon on same date as municipal elections take place. The sum stipulated therein will be \$75,000 and the period to extend over, to be forty years. This, I understand, will require the assent of the Lieutenant-Governor. Kindly advise me where I shall find the proper mode of procedure in so doing?

Under section 384, of The Municipal Act, a debt created by by-law must be repaid in certain cases within twenty years and in others within thirty years. There is no authority to submit the by-law in question to a vote of the electors, the term being forty years. If it is important to your ratepayers that the repayment of the

money should be extended over a period of forty years, the council should apply to the legislature for extra authority to do so.

Reeve for 1900 Can Run for County Councillor for 1901-02.

7.—J. A.—Must I resign my reeveship before the nomination for county commissioner? I am going to resign the reeveship and run for county commissioner.

Section 81 of The Municipal Act provides that "any person having the necessary qualification, and not otherwise disqualified, who is a member of a municipal council for the year in which nominations are held for the election of county councillors, shall be eligible for nomination and election as a member of the county council at such election." You need not, therefore, resign your reeveship.

Meaning of Term "Nomination Meeting."

8.—G. M. B.—Clause 3, of section 129, of the Municipal Act, states, "The resignation after the nomination meeting of any person shall be in writing, etc." What does the term "nomination meeting" mean? Is it the hour during which the nominations are received, or does it include the remainder of the day? I have always considered it meant the former and have acted accordingly, while others think it means the latter.

The nomination meeting continues one hour, during which candidates proposed may resign verbally, but after nomination meeting all resignations must be in writing, signed and attested by a witness, and delivered to the clerk or returning officer, within the time mentioned in the Act. Your view of the law is, therefore, correct.

December 15, Statement.

9.—G. L.—According to section 304, sub-section 6, the council has to publish immediately after the meeting of the 15th December, a detailed statement of receipts and expenditures, with statement of assets and liabilities and uncollected taxes. Is it the duty of the treasurer and collector to make such statement? If so, are they supposed to be paid, or could the council appoint some else to do it?

It is the duty of the Council to have the statement made and published. It is the duty of the treasurer and the officers of the municipality to assist in the work, if requested by the council, without extra pay. See Question No. 155, 1900. The statement, when completed, should be signed by the mayor, (or reeve, as the case may be,) and the treasurer.

Voting for County Councillor.

10.—J. W.—In an election for county councillors where two are to be elected can a voter give his two votes to one candidate as formerly, or has the law changed so that he can only give one vote to each of two candidates? If the law has been so changed please give chapter and section.

The law has not been changed in this particular since the last county council elections. A voter can still give his two votes to one candidate. See sub-section 2, of section 168, R. S. O., 1897.

Should Transient Trader, Selling his Own Goods, Obtain Auctioneer's License.

11.—E. D.—Would you consider it necessary for a trader, who is an auctioneer, to take