

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.

Fire Limit By-Law.

167.—M. B.—1. We want your opinion as to whether a council, after they have passed a by-law to prevent the erection of wooden buildings in certain limits, and a building has been erected within said limits, contrary to the by-law, has the council the power to pass another by-law authorizing the pulling down or removal of that building erected?

2. Would it be the proper way to have a clause in the by-law (to prevent the erection of wooden buildings) authorizing the pulling down or removal of buildings constructed in contravention of the by-law? See section 496, sub-section 10, chapter 42, Consolidated Municipal Act, 1892.

1. The latter part of sub-section 10, section 496, of the Consolidated Municipal Act, authorized the council of every town, city and incorporated village to pass by-laws for authorizing the pulling down or removal, at the expense of the owners thereof, of any building or erection which may be constructed, repaired or placed in contravention of any by-law passed in accordance with the provisions of the first part of said sub-section 10.

2. Yes.

Accident on Highway Joint Liability.

168.—E. D.—NATURE OF CLAIMS.—A young man was driving a spirited team of horses along the road allowance on the 4th of last month, when the roads were breaking up. At such times the centre or travelled portion in most places is much higher than the sides of the road. It appears the team took fright at a saw-log lying on the road allowance, but not on the travelled portion, and got off the solid road, on the opposite side from the log (where the snow was rotten), and plunged about in such a manner that either the horse or his mate on the higher portion inflicted injuries from which he died soon after. The owner now claims pay from the council for the horse. The strange feature of the case is that the accident happened near the young man's home, in his own road division, in which his father, who lives on the adjoining farm, is now pathmaster, and has been so for a number of years past.

The law is that any object which is calculated to frighten ordinarily gentle horses, and which is negligently allowed to be on the highway, furnishes sufficient ground for action against a municipal corporation for any damages resulting therefrom. If the owner of the horse can show that the log was calculated to frighten horses which were ordinarily quiet or gentle, and that the pathmaster knew that the log was in the highway, and did not have it removed within a reasonable time, we think

a case of negligence, entitling the owner to recover, would be established. It has been held that a person does not lose his right of action by using a highway knowing that there are defects in it, his knowledge having the effect only of requiring a greater degree of care on his part. The person who placed the log on the highway would also be liable.

License to Pay for Inspection of Slaughter Houses, etc.

169.—W. E. A.—Would it be legal for a township council to pass a by-law putting a small license fee on cheese factories, creameries and slaughter-houses, to assist in meeting the expense of having a sanitary inspector inspect these places, as provided by the Public Health Act?

No. But the council may direct the payment of a fee not exceeding \$1 to the proper officer for a certificate of compliance with any regulations in regard to a trade or calling. Even this fee can be charged only in cases in regard to which the council has power to make regulations. See section 286, Consolidated Municipal Act.

Assessment Telegraph Poles and Farm Implements.

170.—J. W.—1.—Are the telegraph poles, the telegraph wires and the instruments used for transmitting and receiving messages liable to assessment and taxation, i. e., such part of telegraph line and instruments as are within the municipality? 2. Are farmers' vehicles, such as sleighs, cutters, wagons and buggies and farm implements used upon the farm, as well as threshing machines, which are used only in threshing the owner's grain, assessable and liable to taxation?

1. No.

2. Section 7, Consolidated Municipal Act, 1892, provides, "All property in this province shall be liable to taxation, subject to the following exemptions: The only exemption which would apply to this property is that mentioned in sub-section 22, which provides "the net personal property of any person, provided the same is under \$100." It therefore follows that the property specified is taxable unless it is under \$100.

Billiard Table License When Necessary.

171.—J. H. M.—1. We have a barber running a shop here who has one end of shop partitioned off, and in which he runs a pool or billiard table. On the door of this room he has printed "private," and as there is generally some one in this room playing, the door which closes with a spring lock from the inside, any parties cannot get in without the proprietor, who carries the key, sees fit to let him. As we have a by-law charging a license of \$30.00 for each table per year, or part of year, which is dated March 1st, the committee whom the council appointed to look after the collecting of license, or at least see that same is paid or that the by-law is not infringed by playing on such tables on which license is not paid, cannot get in to see this party's table. What we would like to know is, can the council pass a by-law prohibiting any communication with a room where a billiard or pool table is kept, and a place of business of any kind, or in what way can an infraction of the law be stopped, as I try to show in the above clause?

2. Is it necessary to appoint pound-keepers in villages every year, or are they supposed to retain office until a successor is appointed?

2b. If they are not appointed annually or do not take the declaration of office each year, where they continue to act, are they or the corporation liable to refund any fees provided by by-law, or can the same be collected from the poundkeeper or corporation by any action in court?

1. If table is kept for hire or gain the owner is liable to the penalties provided for in by-law fixing the license fee.

2. No. They retain office until a successor is appointed.

2b. No.

Commencement of Pathmasters' Duties.

172.—A. S. Y.—At what time do the duties and responsibilities of pathmasters commence, their appointment and signing of the declaration or when they receive their road warrant?

As to the municipality, as soon as he is appointed, and as to the pathmaster himself, as soon as he has knowledge of his appointment.

By-Law Re Weigh Scales.

173.—J. T. C.—Does the council of a township have to pass a by-law to allow private parties to erect weigh scales for public use on the side of a public highway, said parties retaining all fees, and does sub-section 8 of section 497, chapter 184, R. S. O., govern such fees?

No.

Police Village By-Laws.

174.—C. S. B.—A township council is asked by the trustees of a police village in the municipality to pass a by-law to prohibit the cattle from running on the streets of the said police village, also a by-law to impose a tax on dogs in the village.

Can such by-laws be passed, neither of them to be in force in the township outside of the police village?

No.

Owners, Occupants and Farmer's Sons.

175.—W. D. McL.—1. A father sells his farm to his son who is not married; the father, whose wife is living still lives in the house along with the son, who owns and works the farm. Is the father entitled to be put on the assessment roll as a house holder?

2. Is an adopted son entitled to be put on the assessment roll as F. S. or joint owner?

3. A man sells his farm to his son, but holds a life interest in it. Would that entitle him to be placed on the Voters' List (part 2), as he does not live in the municipality?

1. No. The father is not a tenant. The mere fact that he lives in his son's house does not make him an "occupant" in law. The word "occupant" applies to a person other than the owner living on the land. When the owner himself lives on the land he is also the occupant.

2. No.

3. Yes.

Part Payment of Division Registrar.

176.—J. K. C.—From New Years until the former clerk had entered eight registrations of births, deaths and marriages, but as you will know I have to make a copy and send to the registrar-general.

Who is entitled to payment for these eight registrations? and if divided between us, what proportion?

Sec. 30, cap. 40, R. S. O., 1887, entitles the division registrar to a fee of 25 cents for each birth registered by him.