

QUESTION DRAWER.

SUBSCRIBERS only are entitled to opinions through the paper on all questions submitted if they pertain to municipal matters. Write each question on a separate paper on one side only. When submitting questions state as briefly as possible all the facts, as many received do not contain sufficient information to enable us to give a satisfactory answer.—ED.

ASSIGNACK.—1. Physician with salary from Dominion Government of \$1,000.00, and practice say \$2,000.00, of this how much assessable?

2. To whom are lots assessable that have been sold at last tax sale?

3. If lots are missed or wrongly numbered can council at present time order additions or corrections to be made?

4. Church building let as public hall and not used for church purposes, can it be assessed?

1. Sub-section 23, of section 7, of the Consolidated Assessment Act 1892, provides for the exemption from assessment of the annual income of any person derived from his personal earnings, to the amount of \$700.00. The thousand dollar salary received from the Dominion Government is exempt from assessment. In view of the above the person referred to will be liable for assessment on income to the amount of \$1,300, see note "u" to Sub-section 13, of section 7, of Assessment Act in Harrisons Manual.

2. If the loss referred to were sold prior to the making of your last assessment roll, they should be assessed to the purchasers at the tax sale.

3. If the court of revision on the assessment roll has not yet been held, the lots missed or wrongly numbered can be added, or changed on appeal made to the said court in the regular way. Otherwise the procedure laid down in section 154, of the said Consolidated Assessment Act will have to be observed.

4. We are of opinion that the building in question is exempt from assessment, for the reason that although it is not used as a place of worship, we assume from the language of your question that the building is used for public municipal purposes, and would thus be exempt from assessment, Sub-section 5, of section 7, of said act.

O. L.—Three of the township councillors are in favor of giving their services as councillors free of any charge to the municipality; the reeve and one of the councillors are opposed to this. Can the two latter be compelled to give their services free? the majority of the council being in favor of this measure.

Section 231 of the Consolidated Municipal Act 1892, provides that the council of every township and county may pass by-laws for paying the members of the council for their attendance in council, or any member while attending on committee of council, at a rate not exceeding \$3.00 per day, and 5 cents per mile necessarily travelled (to and from) for such attendance. Since a by-law of this description could be passed only by the votes of the majority of the members of the council, if the majority of such members be against the passing of such a by-law, the two members referred to by our correspondent will have to submit to the voice of the majority, and

go without remuneration for their services as councillors.

IN EXPERIENCE.—1. If A buys at treasurer's sale of lands one hundred acres in December, 1893 for \$2.50, and the assessor in April, 1894 assesses the same for \$125.00, and members of the court of revision in favor of assessment where no improvements are made on said lot. Where is A's remedy?

2. If township treasurer sells to B unpatented lands with no improvement thereon, contrary to law to the amount of 700 acres to one single man, and when B demands redress, who is responsible and what is the remedy?

1. The fact that A purchased the lands mentioned for \$2.50, at a tax sale is not conclusive as to its actual value, nor binding as such on the assessor or court of revision on appeal to them. If the assessors idea as to the value of the lands is \$125.00, and the court of revision on appeal to them confirm that idea, A's only remedy would be an appeal within the proscribed time to the county judge from the decision of the court of revision, and the judge's decision would be final and conclusive.

2. This question is somewhat indefinite, as it is not stated whether the lands referred to have been located or not. However, in any event we do not see what redress B would have, other than the recovery by him from the municipality of the amount paid by him for the lands at the tax sale, assuming that the lands were sold for taxes.

F. J. C.—In laying down a sidewalk on one side of a street under the local improvement plan, can both sides of the street be assessed for the cost thereof? If so, then must the petition for the walk include the owners on both sides of the street if the initiation of the work is by petition?

2. Is it necessary for the council to pass a by-law imposing a dog tax under chapter 62 statutes of 1890? or must the assessment be made even though there is no by-law?

I would draw your attention to sub-section 2 of section 2 of said act, where it says the council, upon a petition of twenty-five ratepayers, may pass a by-law that the tax or any part of it shall not be levied in said municipality. This would seem to imply that no by-law was necessary imposing the tax. Also see section 282, Municipal Act, 1892.

1. No.

2. The statute cited by our correspondent itself imposes the tax and by-law referred to in sub-section 2, of section 2, of said act is only necessary when pursuant to the preliminaries mentioned therein, the council deems it advisable to provide that the said tax, or any part of it shall not be levied in the municipality.

W. F. T.—Somewhere in the neighborhood of 1850, the government built a road from Sault Ste. Marie to Bruce Mines in Algoma; said road is reserved in the patents issued for lots through which road runs.

1. Have municipal councils power to close up said road or any portion of it?

2. If they have, what disposal must they make of the road so closed?

3. When it is a reserve can municipality give a deed for road if closed?

1. Our correspondent does not state whether the road referred to by him remains vested in her majesty as representing the Dominion of Canada, as a Dominion work or Dominion property, if it does, it cannot be interfered with by the municipal

council without the consent of the Government of the Dominion of Canada. See section 543 of the consolidated Municipal Act, 1892. If the road is under the jurisdiction of the municipal corporation in the ordinary way it is in the discretion of the council to close up said road, observing strictly the preliminaries required by section 546, and the general provisions as to closing up the highways contained in said act.

2. Sub-section 9, of section 550, of the Consolidated Municipal Act, enables township councils to pass by-laws for selling an original road allowance to the parties next adjoining, whose lands the same is situated when a public road is being opened in lieu of the original road allowance, and for the site or line of which compensation is being paid for selling in like manner, to the owners of any adjoining land, any road legally stopped up or altered by the council; and in case such parties respectfully refuse to become the purchasers at such price as the council thinks reasonable, then for the sale thereof to any other person for the same or a greater price.

3. If the road is under the jurisdiction of the municipal corporation in the ordinary way, such deed can be given, but if it is still a Dominion work, the corporation cannot legally so deal with it.

J. M. D.—A farm was cleared forty years ago, and fenced along the concession line, where the owner thought was the proper line. Two or three years ago it was surveyed and the fence proven to be near the centre of the road allowance. The owner has moved the fence to its proper line, but left a large quantity of stones that he had put in the bottom of the old fence. Whose duty is it to remove the stones off the road allowance, the municipality or the owner of the farm?

We are of the opinion that the person who placed and left the stone on the road allowance, is the person proximately responsible for the removal of same, the Municipal Act 1894, provides that by-laws may be passed to remove stone at expense of persons placing it on the road.

INQUIRE.—1. To what extent can a Municipal council borrow money without submitting a by-law to the ratepayers, for that purpose?

2. Do the reeve and two councillors form a quorum for the transaction of business or does it require three councillors?

3. Are not councillors personally responsible, should they vote away money contrary to law?

1. The statute authorizes councils to borrow to meet the then current expenditure of the corporation until such time as the taxes levied therefor can be collected. This means that the monies borrowed should be included in the estimates and paid out of the taxes levied the same year. No limit is mentioned except that maximum rate is twenty mills.

2. Three a quorum for a transaction of business, but all must vote together to carry a resolution, this is as provided by section 235 of the Municipal Act,

3. No. See section 338 Municipal Act.