

Question Drawer.

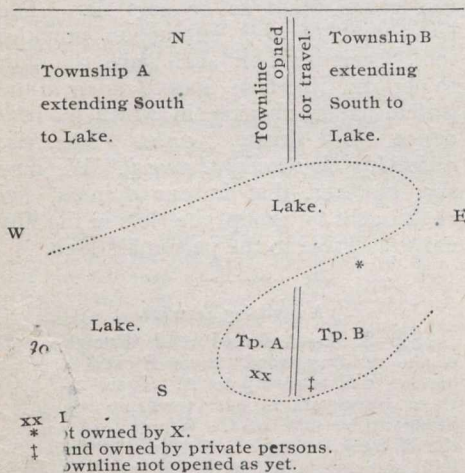
Subscribers are entitled to answers to all Questions submitted, if they pertain to Municipal Matters. It is particularly requested that all facts and circumstances of each case submitted for an opinion should be stated as clearly and explicitly as possible. Unless this request is complied with it is 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 stamp addressed envelope. All Questions answered will be published unless \$1 is enclosed with request for private reply.

Obligation of Municipality to Open Road.

172—R.—X owns a lot of land in A township, but there is no approach thereto by land, except through B township, over lands owned by private persons. How can a road be obtained for X? and which township should take the initiative? I enclose diagram showing the position of X's land.



It is optional in any case with a township council whether it passes a by-law pursuant to section 637 of the Municipal Act, opening and establishing a new road or not. It should not do so in this case unless the members are satisfied that the proposed road would be for the general benefit and convenience of the community. The road in question when purchased and opened would, it appears to us, be for the benefit of one person only, viz. the owner of the isolated land, and the council should not make any move in the matter. If X desires a road to his land he will have to acquire by purchase or otherwise the land necessary from the private owners.

Council May Adopt Use of Voting Machines at Elections.

173—P. M. G.—Has a municipal council power to pass a by-law, enforcing the use of a voting machine?

Section 1 of chapter 37, Ontario Statutes, 1900, provides as follows: "Notwithstanding anything in the Municipal Act, or any amendments thereto, the council of any municipality may by by-law passed by the affirmative vote of not less than two-thirds of the whole council, provide that, thereafter, the use of ballot-boxes and ballot-papers, at municipal elections, shall be discontinued, and may adopt for use at elections any kind of voting machine that complies with the requirements of this Act, and thereupon and thereafter, such voting machines so

adopted may be used for voting, registering and counting votes cast in such municipality and such municipality may, at any time, by a majority vote of the whole council, repeal such by-law."

Council Should Retain Collector's Bond.

174—J. W. C.—Our collector returned his roll correct in the right time. His bondsman now asks for his bond. Have the council the right to give it up?

The council has no right to cancel or surrender the collector's bond. As soon as it is signed by the collector and his sureties and delivered to the council, it becomes one of the municipal records and should be retained in the custody of the clerk, for the time being, as such, for all time to come. If the collector has collected, duly accounted for and paid over all monies of the municipality coming into his hands by virtue of his office, returned his roll and otherwise performed his duties as the law requires, the retention of the bond by the municipality can in no way work prejudicially or unjustly to any of the parties concerned.

Duties of Police Trustees

175.—ENQUIRER.—1. Can the trustees of a police village pass by-laws to regulate the running at large of animals in the village, to regulate the public morals, appoint constables, etc.? If not, how are these matters regulated?

2. Can the trustees legally appoint and pay a secretary to assist them in their labors?

1. Section 52 of the Municipal Amendment Act, 1900, empowers police trustees to pass by-laws for any of the purposes mentioned in section 546 of the Municipal Act, subsection 2 of which relates to the restraining and regulating the running at large and trespassing of any animals, etc. There is no power given such trustees to pass by-laws regulating public morals. The township council may do this pursuant to section 549 of the Municipal Act. Subsection 1 of section 48 of the Municipal Act, 1899, empowers police trustees to appoint constables.

2. The statutes confer no authority on police trustees to appoint a secretary, so we are of opinion that they cannot legally do so.

15th December Statement—School-House Not a Township Asset—Settlement on Separation of a Town—Power to Remit Taxes.

176.—T. S.—1. In 304 (6) of Municipal Act, the council of every town, township and village is required to publish a detailed statement up to the 15th day of December. Please give a few lines for example in detail, as a municipal

accountant and I differ about the matter. He maintains that the statement should be got up similar to the headings in government cash-book and no names or date given.

2. Is it necessary that the last fifteen days of the year should be published same year or year following? I maintain that they ought to be published year following at the same time as the statement to January 1st to December 15th or 16th.

3. School section asked township to issue debentures for the erection of a schoolhouse. Trustees were paid over the moneys derived from the sale of debentures and schoolhouse was built. Is it an asset of the township or does it belong to school section? I have all along been under the impression that it belongs to the school section, but this accountant says it is an asset of the township and should be entered as such in financial statement.

4. Please state where to find in the statutes how a settlement is made when a place gets incorporated as a town and separates from township.

5. Has a municipal council power to remit taxes from collector's roll if they don't want to enforce collection?

1. The object of the legislatures in enacting this subsection was, doubtless, to place in the hands of the electors a full and complete statement of the finances of the municipality prior to nomination day, so as to enable them to thoroughly understand the methods pursued by their representatives in transacting their business. The statute says a "detailed" statement must be published by the council within the time and in the manner prescribed. This statement must contain each item of receipts and expenditures with dates of each, the names of the parties who received or paid the money and the purpose for which it was received or paid, in a manner similar to the annual municipal audit. A statement of any other kind would not be a "detailed" statement, and its publication in any other form than the statute requires would defeat the evident intention of the legislature.

2. We agree with your idea. Subsection 6 provides that, "a similar statement in detail respecting the last fifteen days of the PRECEDING year shall be attached thereto."

3. A school-house, when built, is the property of the ratepayers of the school section for whose purposes it was erected, and who contributed the money to build it. It cannot be considered an asset of the township.

4. Your town being located in a district, required the passing of a special Act to incorporate it. We have carefully examined this Act and find that no provision is made therein for the adjustment of accounts between the newly incorporated town and the township, or townships, of which its area was formerly a part. Section 4 of this Act, provides that, "the provisions of the Municipal Act and any Act amending the same, relating to matters consequent upon the formation of new municipal corporations," etc., shall apply to your corporation. Section 13 of the latter Act, provides for the adjustment of such accounts between a village