

## 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.

T. I.—1. Are telephone companies only assessable for their net annual income?

2. If answer to 1 is "yes," what section of Assessment Act so favors them?

The weight of authority formerly published in these columns is against the assessment of telephone companies, other than for their net annual income. Since the publication of the foregoing Chancellor Boyd has given a decision holding that the mains of gas companies are liable to assessment. As this is a higher authority it will most likely have its effect on the assessment of the poles of telephone companies. The full text of the latter judgment has not yet come to hand, but will be published in these columns in due time.

ENQUIRER.—Can a postmaster hold the position of councillor legally?

Yes. He need not run for the office, however, unless he chooses to do so. See section 78, Consolidated Municipal Act 1892.

H. F.—Has a married woman any right to have her name put on the voters' lists and vote at a municipal election, the property being assessed to her, when her husband is living, and votes on the same property?

No.

J. D.—1. In our township by law, respecting pounds, section 4, it reads, 'That it shall not be lawful for any horse, breachy cattle, swine, sheep, etc., to run at large in the said township, and the owners of any such animal be liable for damages committed by such animal, although the fence enclosing the premises be not of lawful height or proper construction.'

Do the words "to run at large" mean running on the highway, or on a man's farm, or both?

2. Is the township compelled by law, to provide crossings over ditches on sides of roads for convenience of ratepayers in having egress and ingress to their farms?

1. The words "to run at large" mean running on the highway. An owner is liable for any damages occasioned by an animal belonging to him, whether the property is enclosed or not. You evidently refer to road fences. An owner is not required to enclose his property except for the control of his own stock. The Line Fences Act refers to division fences between owners, and where the fence is a lawful one, that is, in accordance with the township by-law, the fenceviewers have authority to decide, in case of dispute, the amount of damages committed by any animal. Where the fence is not a lawful one the fenceviewers have no authority, and any claiming damages in case of dispute, may recover the same by an action at law.

2. A township council is not compelled to provide crossings over ditches on the sides of roads for the convenience of ratepayers.

J. N. R.—1. Is the first day of July a legal holiday, and is a by-law passed by the council on that day legal?

2.—Can a council sell tags for cattle to pasture on the highway, without any risk, if there is damage done or accident by such cattle?

1. The first day of July is a legal holiday, but a by-law passed on that day would be legal.

2. The council has the power to pass by-laws regulating the running at large of cattle, and may provide tags for the same, as they are allowed to do in the case of dogs. The owner of the cattle would be liable for all damages occasioned by them.

C. D.—Can a municipal council legally make a grant of, say \$100.00, to advertise the town in the Toronto Globe? Our town voted a grant of this kind and are threatened with legal proceedings to restrain them from paying over the money. Can they be restrained?

We are of opinion that the advertising of the town is an enterprise of a private nature and could not be paid for out of the general funds of the town, unless authorized by a vote of the people.

W. B.—1. Is the mayor of the council a member of all the committees appointed by the council such as public works, finance, indigent, by virtue of his office?

2. If so, should he not be notified to attend committee meetings, and for the want of notice is the work done at the meetings legal?

1. Not unless so constituted by resolution or rules and regulations governing proceedings of the council.

2. If a member, he should be notified of his committee's meetings.

To give opinion as to legality of work done we would require to have further particulars as to appointment and work of committee.

O. B.—I have lot No. 1, Township of Balfour, consequently I am on the boundary line between Balfour and Rayside. I have paid for my lot and I got my patent for it. I have about 11 acres clear, and a good fence on the boundary. The councils of Rayside and Balfour want to open a side road in the boundary line.

1. Can they take my cleared land, 33 feet, and order me to move my fence at my own expense?

2. There is a sideroad at 19 acres from that boundary line in Balfour. Can Rayside force Balfour to furnish 33 feet for that road in the boundary line? That road would be of very little use only to accommodate 2 or 3 inhabitants, to shorten the way to the government road.

1. In case this road is necessary for the convenience of the settlers, the councils would have the right to open it up, after taking the proceedings set forth in the Consolidated Municipal Act, 1892, section 546, and on paying the owner a fair compensation for the land taken, and the trouble he has been put to.

2. If the opening of the road is necessary, Balfour should furnish its thirty-three feet of the road.

COUNCILLOR.—Can you inform me whether a municipal council can pass a by-law to prevent the acceptance of a nomination by a candidate for Municipal honors who has failed to have paid his municipal taxes for the year due previous to nomination day?

There does not appear to be any statutory provision prohibiting such a person as is mentioned by our correspondent running for municipal office, so long as he is possessed of the rating or qualification mentioned in section 73 of the Consolidated Municipal Act, 1892.

R. W.—1. Does the absence from council for three successive meetings declare the seat of such councillor so abstaining vacant? If not, how many will do it?

2. If town council purchase two lots at tax sale and turns the same into street, puts on surveyor, compels the owner next street (lots) to move his fence. Is the council liable for one half cost of fence, street not being registered, but is still on the town plan as lots?

3. If town separates from county, what proportion of a refund can town claim, they having paid the one-fifty-second part of all the county's liabilities, a large proportion of which consists of bridges and other county property?

1. Absence from the meetings of the council for three months without the authority of the council by resolution entered in its minutes, vacates a member's seat in the council.—Section 177, Consolidated Municipal Act, 1892.

2. If the council has passed a by-law assuming and establishing the lots as a street, as provided in the Consolidated Municipal Act, 1892, if the owner's fence is on the council's land, the council can compel the owner to move it at his own expense.

3. The amount of refund the town would be entitled to should be determined by agreement or arbitration, in the manner set forth in section 25 of the Consolidated Municipal Act, 1892.

T. D. R.—When the government survey was made in our Township a number of jogs were made in the sidelines. In most cases these jogs are in the centre of the concessions, and persons who are losers of lands thereby are causing a great deal of trouble. Some, indeed, have closed up the roads.

1. Can the corporation legally hold these roads?

2. Does it require a by law of the township or an act of parliament to establish said jogs?

1. Yes.

2. If the roads are as they were originally laid out, the owners of adjoining property have no right to close them up unless the council passes a by-law for that purpose.

ALGOMA SETTLER.—In the case of settle taking up a farm in an unorganized township of Algoma, for which he has to pay to the government fifty cents per acre and do a certain amount of improvements, extending over a period of four or five years, before he can get his title deeds, there being no herd law, can his land that he has cleared, but not yet fenced, be legally assessed as improved lands, for school purposes, the remainder being assessed as wild lands?

We are of opinion that the lands mentioned can be legally assessed to the extent of the settler's interest therein.

J. B.—

K. Bros., owners, assessed on lands... \$5,000

M. B., their tenant on another farm, duly described..... 1,800

K. Bros. paid taxes and did 24 days' statute labor on the total..... \$6,800

M. B., the tenant above-named, as put on assessment roll for one day's statute labor, when, according to lease, the landlord agreed to pay all lawful taxes, etc., and did so. The point of this question is, When an owner agrees to pay all taxes legally assessed on property and does so, is a tenant liable for one day's statute labor under the act as not otherwise assessed?

No.