

**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, unless \$1 is enclosed with request for private reply.

Reeves as Justices of the Peace—Taxes to Treasurer.

194.—J. H.—1. Has the reeve of a municipality, by virtue of his office, authority to administer oaths, or act as justice of the peace in matters over which the council has no jurisdiction?

2. Is it legal for a township council to pass a by-law to have all taxes paid direct to the treasurer on or before the 14th of December in each year?

1. Yes. See section 415, Consolidated Municipal Act, 1892.

2. Yes. See section 53, Consolidated Assessment Act, 1892.

Treasurer's Responsibility—Books and Money Burned.

195.—A SUBSCRIBER.—In case the books and money of a municipality are accidentally burned, is the treasurer responsible?

No, unless it be shown that he was guilty of negligence. In the case of Houghton vs. Freeland, where it was shown that the treasurer kept his monies in his house, there being no proper place for depositing the same provided by the municipality, and there being no bank in the county within thirty-five miles, it was held that he was not liable for the loss of township money occasioned by the accidental burning of his house. From this it will be seen that the question of liability depends upon negligence, and without the facts we cannot say whether the treasurer in this case is liable or not.

Public School General Rate—When to be Paid.

196.—N. H. B.—Is a municipality obliged to pay a school section more than what is directly levied on that section when the school in said section has only been open three months in the year? They having applied for \$250, \$150 being levied and \$100 paid out of the municipal rate, are we obliged to pay the \$100?

No. See section 66, Public School Act, 1896.

Protestant Separate School Supporters—Assessment.

197.—J. E. M.—1. We have a Protestant separate school in our township. A, one of the founders of the separate school, has sold his property to B, a Protestant. B demands to be assessed as a public school supporter. How should he be assessed?

2. C is owner of a property in the separate school. D, a tenant, asks to be assessed in the public school. How should D be assessed?

3. Is it necessary for those parties to have previously notified the township clerk? If so, when?

1. Sec. 14, chap. 227, R.S.O., 1887, provides that the clerk shall not include upon the collector's roll any person whose name appears upon the return required by sections 12 and 13 of the same act. Section 12 requires the trustees of every separate school, on or before the 30th day of June and 31st day of December, to transmit to the county school inspector a return of all Protestants who have sent children or subscribed for the support of separate schools during the last preceding six months, and it is the duty of the inspector (under section 15) to forthwith make a return to the clerk of the municipality. The names of these persons are not to be put on the collector's roll, and under section 17 the trustees have power to impose and levy the necessary rates. Unless a person desires to take advantage of such a school, his course is not to send his children to the school, and he will be assessed as a public school supporter. B should be assessed as a public school supporter, and the clerk will then have to deal with him under section 14, according to the return.

2. As a public school supporter.

3. No, except in the case of Roman Catholic separate school supporters, who must give notice (under section 40), on or before March 1st and before the second Wednesday of January (under section 47), to entitle them to withdraw from a separate school.

Collector's Appointment—Declaration—Defalcation—Proceedings to Recover.

198.—CASE.—Township council last September passed a by-law appointing B collector, at a salary of \$25, with security at \$300, and, as the minute reads, "also to collect old taxes from 1895 roll and charge mileage to defaulters."

This is entered in minute book, but the by-law is not entered in by-law book, nor sealed nor signed. The minutes of that meeting are not signed by reeve, only by the clerk, therefore no record, other than contained in minutes of appointment.

At next meeting of council a resolution was passed as follows: "That collector allow 5 per cent. to all ratepayers who pay their taxes before Feb. 1st, 1897, on the roll of 1896."

B collected some taxes on defaulters' list, and charged mileage to some and some he did not, and returned some as still in default. Rendered a bill of \$11.60 to council for uncollected mileage, which council allowed him, and he received this amount from treasurer. When roll for 1896 was ready B received it and collected taxes on it. In January a new council was elected, and they appointed all new officers; on January 11th the new collector signed his declaration of office, together with bonds required, and auditors received instructions to audit collector's roll to date and make transfer to roll of new collector. Circumstances intervened that the auditors could not make the audit before January 28th. B refused to deliver the roll to auditors, claiming he had until February 1st to make return of the roll. Council met on February 1st, and the roll was not audited, consequently B did not receive his order for salary. Defaulters' list B had collected on cannot be found, B claiming it was worn out carrying around. Auditors worked out another, and finally found B in default to township of \$27.93. Council finds, in a search through township, documents that B has not signed any declaration of office or bonds as security. B was notified of the amount he was short, and council required him to pay the amount to treasurer

on or before April 1st. B has paid no attention to, nor attended the council to explain, or taken any notice whatever of the council in the matter.

1. Was B duly appointed collector?

2. If so, did his term of office end as soon as the new collector signed his declaration and bonds?

3. If duly appointed, had B power to collect before signing declaration and bonds?

4. Is he liable to fine after this length of time under the circumstances?

5. Can corporation compel B to pay over this \$27.93?

6. Is anybody responsible to ratepayers if this sum cannot be collected from B?

Please advise what steps the corporation should take in the matter.

1. Yes.

2. Yes.

3. The collections were valid.

4. It does not appear that he would be liable to a fine, and we would not advise proceedings to recover the fine.

5. Yes.

6. No.

We would advise an action against him in court.

Snow on Farm Crossings of Railway—Rails on Highway Crossings.

199.—T. T.—1. The railroad runs through my land; there is a cut where my crossing is, and during the winter it drifts up with snow, and the snow-plough throwing in still more. The company does not want to shovel it. Who is the one who should do it? What am I to do?

2. Can a company, at the main road crossing, keep the planks and the rails at a level, or should the planks be higher than the rails?

1. We know of no statutory regulation requiring railway companies to clear snow from farm crossings.

2. See Question 137, in April issue. Rails may be one inch above or below the planks.

Councillor—Contract Completed.

200.—J. B.—A member of the municipal council (second deputy-reeve) drew \$70 on by-law, moved by himself, for wire fence along the public road—fencing his farm at township expense is what people call the deal here. Would this unseat him or what on his declaration?

The money having been paid over and transaction closed, nothing further can be done in the matter.

Bonus for Grain Elevators.

201.—E. E.—Can a township council buy a piece of land, \$200 in value, and give to a firm to build an elevator upon? We have a petition laid before us largely signed by ratepayers, praying the council to give the above bonus. Have we the power to do so?

Yes, after 1st July, 1897, under provisions of Municipal Amendment Act, which comes into force on that date.

Collectors or Bailiffs' Seizure.

202.—F. A. G.—A has his chattels seized by bailiff for rent for landlord, and while in possession of bailiff, but still on premises, our collector seized part of the chattels and sold them for taxes due on the premises. Was it legal, and could our collector do it?

The seizure by the bailiff for rent in no way disentitled the collector to seize.

Treasurer's Bank Account.

203.—EX-REEVE.—Has a municipal treasurer authority to withdraw on his own cheque, signed