

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.

Pathmaster's Ditches—Liability for Damages and Crossings.

375.—J. M.—Pathmaster improved road past a man's place, opposite buildings, extended ditch to culvert where water could run off, on side of road buildings on, only extended ditch to man's barn. Now this man claims that before this road was ditched the water from the upper side of road from his place run off the road and was evenly distributed over his land, but that now the water in the ditch on the side next his place runs through his gate and into his barn-yard and down to his house and damages him, and claims that the council should put in an underground pipe to carry water past barn and gate to meet culvert.

1. Please say if the council are obliged to put in pipe to carry off water for him.

2. When road passes man's buildings or roadway to his property are the council obliged to make crossing over ditch for him?

x. The municipal corporation is liable in damages upon the facts stated. A pathmaster has no right to have ditches dug along the highway by which water is brought to a certain point and discharged upon a private individual's land to his injury. The council should direct the pathmaster to have the ditch continued to a proper outlet or altered in some way so as to prevent any damage in the future. They are not obliged to put in a pipe for the land-owner.

2. No.

A Township Bridge.

376.—COUNCILLOR.—In this township there is a county road running across the township, and there is a road leading to this county road kept up by statute labor or township grants. This road reaches the county road by a bridge passing over a large ditch, and this ditch is inside the county road limits.

Has the county got to keep up this bridge?

No.

Councillor Not a Collector's Bondsman.

377.—A SUBSCRIBER.—Can a member of municipal council be legally a bondsman for tax collector?

No.

Municipality Liable for Rent of Room for Police Magistrate's Court.

378.—ALGOMA.—Is a municipality compelled to pay the cost of hiring a court-room under the following circumstances: A person being arrested for robbery, and the police magistrate come to

try the case. There is a lockup in the village in the jailer's room of which the police magistrate usually tries any cases, but in the case above mentioned he instructs the constable to hire a hall in the village, if it could be got for such a sum, which was eventually done. Now the judge, as one of the provincial auditors, says the municipality is liable for the cost of the rent.

Please say if it is so.

Assuming that the accommodation afforded in the lockup was not reasonably sufficient under the circumstances, and that the amount paid for the other room was reasonable, the municipality is liable.

By-Laws Allowing Animals to Run at Large—Addition of Percentage to Uncollected Taxes.

379.—J. W. K.—1. Are animals prohibited to run at large by the statute? Has a council to pass by-laws allowing them to run at large?

2. Where the collector's roll is not called in February and the council extend the time till after the first of May, can the treasurer add 10 per cent. to the resident as well as the non-resident, and let the collector go on collecting?

1. Unless the council has by by-law provided otherwise, the Act Respecting Pounds, chap. 215, R. S. O., 1887, is in force in every municipality, and animals are not permitted to run at large, but councils may pass by-laws permitting animals to run at large. This power seems to be implied by the language of section 2 of the above act, where it says "and the owner of any animal not permitted to run at large by the by-laws of the municipality shall, etc."

2. No.

By-Law to Prevent Working on Statutory Holidays Illegal.

380.—R. S.—Would it be legal for the town council to pass a by-law to prevent anyone working on the Queen's Birthday, Dominion Day and other statutory holidays.

If it is illegal to pass such a by-law please quote statute, etc.

P. S.—Also Civic Holiday proclaimed by mayor of town council.

No.

Bridge Accident—Previous Notice as to Condition—Liability for Damages.

381.—E.—A bridge on the boundary between two townships is unsafe. A party tried to take a steam boiler, etc., over it, although warned by an official of the council that it was not safe to do so, and besides the party was well aware of its unsafeness. The bridge broke. He has now put in a claim for damages. Are the councils liable?

No.

Councillor Without Property Qualification.

382.—J. P. W.—1. If the qualification of a councillor is insufficient does he incur any penalty by acting?

2. What measures must be taken by those who wish to prevent his acting?

1. No.

2. Proceedings should be taken within six weeks after his election or one month after acceptance of office under section 188, Consolidated Municipal Act, 1892.

May Vote on By-Law and for Council same day—Assessment Personal Property.

383.—T. F. W.—1. Will it be legal for a local option by-law to be voted on the same day as the election of reeve and councillors?

2. A loaned \$450.00 to the municipality on note due May, 1897. During April assessor assessed A for \$450.00 personal property. A appealed to court of revision but court sustained the assessment. Is it legal, and can A be taxed on full amount of money loaned or only on interest?

1. Yes.

2. A is assessable in respect of the income alone, and then only upon the excess above \$400. If he was assessed \$450 in respect of the loan the assessment and its affirmation by the Court were entirely wrong.

Public School Trustees—Teacher Without Certificate—Payments—Assessment Roll and Letters M. F.

384.—MANITOULIN.—1. Can the trustees of a public school (who hire a teacher who has no certificate) be compelled by law to pay the teacher's salary for the time he may teach, and will the school lose the government grant? If the grant be lost can the trustees be sued and compelled to make it good?

2. If the assessor of a township fails to put the letters "M. F." in the fourth column of the assessment roll after each name, and the council let it pass the court of revision uncorrected, will the ratepayers have votes at the next Ontario election? If the roll is wrong what steps should be taken to make it right, so that the ratepayers will have votes?

1. The teacher cannot recover, and the trustees can be compelled to make good the amount paid if they pay it over to an unqualified teacher.

2. The error may be rectified by an appeal to the County Judge, under the Voters' List Act. See sub-section 8 of section 14b, Consolidated Assessment Act, 1891.

May Abolish Statute Labor.

385.—W. P.—Has the municipal council power to entirely abolish statute labor?

Yes.

Burial Ground.

386.—QUERY.—Previous to 1885 (some years) a neighbor, still living, announced that he gave to the surrounding settlers half an acre of his land to be used as a public burial ground; several were buried therein. In 1885 the ground required fencing. A public meeting was held, money subscribed, and a resolution passed that some one should write to a public newspaper, asking legal method of obtaining proper possession. This was acted on. The reply was, "Get a plan and certificate attached (if property is surveyed) get giver of land to sign plan and certificate, send these to township clerk, who shall bring it before the council who shall have it registered; land then becomes corporation property. All this was done so far as sending to township clerk. Years went by, in fact till very recently it began to come out that the man who was supposed to have given the land was collecting one dollar from some persons who were burying there. A public meeting was held August 21. The whole matter was brought up; the giver of the land made the statement that he had not been paid all up for fencing that he considered the public still owed him. The money which he had collected was for the trouble of showing parties where to bury (he lives close to burial ground); he further remarked that he was never appointed overseer as the public always thought that, being corporation property, the corporation of the township had the looking after it. The owner was paid \$9.80 for fencing, and the fencing cost \$17.50, but \$1.00 was handed to fence-builder by a settler, the builder having taken the job from the giver of the land, whose receipt shows he paid out \$16.50. Giver of land will give no