

**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.*

**Drainage Act Proceedings.**

**380.**—G. L.—We have taken proceedings in our township to have a drain deepened, widened and extended. Said drain was constructed some twelve years ago; four townships interested in said drain; engineer has made examination and served our council with four full reports, plans, specifications and estimates. Estimate over \$3,000. The same were accepted by council, and I was instructed to serve on the reeve of each of the other townships one copy of engineer's report, plans specifications, assessments and estimates, which I have done. I claim according to section 61 of the Drainage Act that is all we are required to serve. Our solicitor claims that it is necessary to serve each of the other townships with a printed copy of our by-law. Please let me know if by-law must be served?

We agree with you. The 61st section does not require a copy of your by-law to be served, and there is no other section which requires a copy of the by-law passed by the initiating municipality to be served upon the other municipalities. The report shows the amount which each municipality has to contribute, and the contributing municipalities must pass a by-law to raise their respective shares in the same manner as the initiating municipality, unless they appeal and succeed in their appeal and are relieved from doing so by the decision of the referee or by Court of Appeal in case of an appeal from the referee.

**Maintenance Mill Bridge.**

**381.**—R. F.—Perhaps thirty years ago a man bought a saw mill with the understanding that he should maintain the bridge through which the water flowed from the mill, across a public highway. There being at that time and now another bridge across same road to allow the water to pass from the waste gate to the pond. But for say ten years all the water except in case of floods has run under the first mentioned bridge, the water course having changed. It is said that the council for the township did spend a small amount in repairing said first mentioned bridge. The question is, the bridge being unsafe, is it the duty of the township to repair it or the private individual who owns the mill?

The council must keep the road in a reasonably fit condition for public travel. If an injury should happen, the alleged understanding that the owner of the mill was to maintain the bridge would not be any defence to the township. The law as to natural watercourses, where the

water flows through a well-defined channel, is that the owners of the land through which it passes are entitled to have the water flow through it. One owner has no right to stop it up or divert it as against another. We cannot, therefore, see why the council cannot say to the owner of the mill, "We will maintain the bridge over the natural course and close up the other channel, and in that way save the expense of one bridge." The mill-owner cannot acquire a right of flowage by prescription across the highway.

**Road Opening.**

**382.**—J. M.—Enclosed is a copy of by-law passed nearly fourteen years ago. The road on this by-law was built four years ago by a grant from government. The parties owning land at time of by-law offered road free and council had it surveyed and established, but owner sold land and council did not build road until four years ago.

1. Can owner of land now make council pay for road and fencing? They have notified council that they have appointed arbitrator and wished council to appoint one for township.

2. Can council avoid paying for road and fencing as the former offered land free for sake of getting road as it would greatly benefit him by getting road?

3. What would you advise in the matter as the present owners want to make something out of council, and know the road is a benefit to them?

(Copy.)

BY-LAW No. 264.

Passed November 8th, 1884.

Whereas it is expedient and necessary to establish a new line of road in the Township of Bedford commencing at a post planted, and marked K on lot number two in the sixteenth concession running in a northerly direction on a line of blazed trees and pickets on lots two three, four, five, six and seven in the sixteenth concession to the travelled road at a post planted and marked K on the traveled road,

And it is hereby enacted by the authority of the Municipal Council of the corporation of the township of Bedford, that the said line of road be established and remain open for the use of the public. Said road to be forty feet wide, twenty feet on each side of the line.

ROBERT COOKE, JOHN ATCHESON,  
Township Clerk. Reeve.

We would advise a settlement with the present owners, if possible. It would be in the interest of private owners also. If it can be clearly shown that the owners of all the lands, when the by-law was passed, wanted the road and offered their land for that purpose a case of dedication may be made out, and in that case the present owners would not be entitled to compensation. But the council may not be able to do this. It may be contended and proved that the offer was made upon the condition that the road would be opened up and made fit for travel and use for those who were giving their lands for that purpose, but that, though the by-law was passed, nothing more was done. Another question which will have to be considered is whether the action of the council really amounts to anything in view of section 630 of cap. 223, R. S. O., 1897, which provides that no civil engineer except the civil engineer of a city or town shall lay out a road or street more than 100 feet nor less than 66 feet in width, except

where an existing road or street is widened or unless with the permission of the council of the county, etc.

**Drainage Act Notices.**

**383.**—H. M.—Certain parties petition a municipal council for a drain under the Drainage Act, 1894. Council appointed an engineer to examine and make an assessment of the lands to be benefitted and those liable for outlet, etc., and report. The engineer has assessed the township, a portion of it, lying west for outlet, and the one lying east for benefit and outlet. Under section 9, subsection 7, chap. 226, R. S. O., will clerk of initiating municipality have to notify all parties assessed in the three townships?

Under section 61 of cap. 22, the council of the municipality which initiates the work must serve the heads of the other municipalities affected with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor. If the other municipalities do not appeal the report, plans, etc., to the drainage referee in the manner provided by the Act, it then becomes the duty of each municipality to raise by by-law its own proportion upon the lands within its own limits, and each municipality must, within four months from the service of such report, etc., pay over its own share to the treasurer of the initiating municipality. Each municipality must hold a court of revision for the purpose of hearing any appeals which may be made. See sections 62 and 63 of the Act.

**Service of Tax Notices—School Tax on Exempted Property.**

**384.**—B. W. H.—1. Is it legal to deliver tax notices to ratepayers through the post office, and could a ratepayer successfully resist payment on the plea that he had not been properly notified?

2. A manufacturing plant is exempt from municipal taxation, but is assessed by order of the council for \$750.00 for school purposes, and supposing the council gives the following order to the collector, "Instructed by the council not to collect", can the Public School Board order the collection of such taxes, or what method should be adopted to collect under such circumstances.

1. There is no authority for delivering tax notices through the post office. Section 134 of the Assessment Act, cap. 224, R. S. O., 1897, provides very clearly the procedure to be observed by the collector. In cities and towns he shall call at least once on the person taxed or at his usual residence or domicile or place of business if within the municipality, and shall demand payment of the taxes or he shall leave a written notice or cause the same to be left with the person taxed or at his place of residence or business, or upon the premises in respect of which the taxes are payable. In other municipalities he is required to proceed in the manner first above provided, unless there is a by-law authorizing him to leave a written or printed notice as provided by subsection 3 of the same section. There is no excuse for a collector neglecting to follow the directions of an Act which lays down his duties as clearly as this Act does. We would advise that a proper demand be made in each case, otherwise the