

Maintenances of Bridges—Road Drain.

484.—J. Mc.—We have a large number of bridges in our township which the ratepayers find are a burden to build and keep in repair. Every year some of them are swept away with the spring floods. This year we lost several which we have rebuilt. The question often arises whether the council can refuse to rebuild a bridge, that is, to do away with it altogether or not. One of our bridges is in the centre of a school section, part of the section lies on each side of the river. We, the council, have rebuilt all the bridges which we lost this year, believing where a bridge has once been built the municipality is bound to maintain it.

1. Is a municipality bound to maintain all bridges or not?

2. Where a farmer has several tile drains running to road, is the municipality bound to deepen road ditches deep enough to take all water from said drains, the road being turn-piked with ditches a sufficient depth for road?

1. Your municipality must keep in reasonably good repair, and in a condition of safety, all bridges therein that public convenience requires.

2. No.

User and Repair of Highway—Removal of Fences—Surveys Act—Unused Road Allowances.

485.—J. C. C.—Between two farms in same concession is an original sideline road which has never been used by public, nor had any statute labor applied thereon. The two farmers whose lands abut have from time to time moved their fences closer together thereon, until the road is almost if not wholly closed, but nevertheless is a constant bone of contention between the two farmers, one of whom has come to the council for redress.

1. If council by a by-law opens same up as a highway, would this imply that public then has right to use it, and would the council then be required to put road in proper repair so as to avoid suits for damages for want of sluices, etc.?

2. Might council, instead of passing by-law to open it up, (it is not asked for by public) merely by resolution order the two farmers to remove their fences and other obstructions from road, and compel them by law to do so if necessary? If each were forced to put his fence on proper line the cause for dispute would be removed. If this procedure is followed, what rights would public have in the road?

3. If the survey of this sideline has become obliterated, or is disputed by either or both of the farmers, at whose expense is it to be re-established, if that be necessary?

4. What rights has the public in unused road allowances which may be open, but on which no statute labor has been expended and which in fact may be impassable? Are they public highways until the council by by-law has declared them open as such, thus becoming responsible for their condition?

1. Yes, the public would have a right to use the road, and the council would be required to maintain the same in a proper state of repair.

2. Yes. The council could compel the farmers mentioned to place their fences on the proper road lines. Reasonable notice should be given them to do so. If they refuse or neglect to comply with the notice an action may be brought to compel the parties to remove the obstructions. We may, however, say that if the council does not desire to open out the road it would be better to take no action in the matter.

3. The line can be definitely located and established pursuant to the authority of section 14 of the Surveys Act. R. S. O., 1897, chapter 181. If this be done,

the cost of so doing can be assessed and levied by the council against the proprietors of lands interested, as set forth in sub-section 5 of this section, but the council should not act under this section unless it is a case to which this section clearly applies.

4. The roads you mention are public highways in the sense that they have been originally laid out for that purpose. The extent to which the council is legally compelled to open up and maintain them depends on the nature of the locality in which the road lies. Whether the neighborhood is wild land, thickly or sparsely settled, and whether there are any physical obstacles to the opening up and maintaining of the road. A council is not legally bound to incur a large expenditure in opening up a road, for the convenience of one or two settlers. The duty is to the general public to open up and maintain the road if the general public convenience requires or demands it.

One Man One Vote—Tax Defaulters—Qualifications in Towns and Districts.

486.—A SUBSCRIBER.—1. Is it lawful for a ratepayer to vote for the same man as alderman for a town in a district in three wards providing he can qualify to vote in the three wards as was done here last January? Some ratepayers voted for the same man three times the same day in our town.

2. Must a ratepayer have his taxes paid before he can record his vote?

3. What is the amount to qualify for mayor, alderman and school trustee in a district?

1. Your town having a population of not more than 5,000, the council shall consist of a mayor, and six councillors, to be elected by a general vote (see section 71a of the Municipal Act.) This being the case, each voter is entitled to one vote for mayor, and as many votes for councillors as there are councillors to be elected. A voter cannot mark his ballot more than once for any one candidate for councillor, nor can he vote in more than one ward or polling sub division.

2. Section 88 of the Municipal Act provides as follows:—"No person who has been returned by the treasurer or collector, under section 137 as in default for non-payment of his taxes on or before the 14th day of December preceding any election, shall be entitled to vote in respect of income in any municipality, or in respect of real property in municipalities which have passed by-laws under sub-section 1, of section 535, but any person who is entitled to vote, and who at the time of the tendering of his vote, produces and leaves with the deputy-returning officer, a certificate from the treasurer of the municipality, or the collector of taxes, showing that the taxes, in respect of which the default had been made, have since been paid, shall be entitled to vote; and the deputy-returning officer shall file the certificate, receive the vote, and note the same on the defaulter's list." See also sections 137 and section 535 (sub-section 1) of the act.

3. The amount of assessment on the last revised assessment roll to enable a

candidate to qualify for election as mayor or alderman in your town is \$400 freehold or \$800 leasehold property. See section 76, sub-section 1, clause G, of the Municipal Act. Any ratepayer who is a British subject and resident in the municipality of the full age of twenty-one years may be elected a public school trustee. See section 53, sub-section 2, of the Public Schools Act.

School Trustees—Municipal Grant—Clerk's Duty—Tenant and School Taxes—Drainage Act—Amending By-Laws.

487.—D. D. C.—The trustees in a rural public school section neglect to put in their requisition, the one hundred and fifty dollars municipal grant, so they were the municipal grant short.

1. Was it the clerk's duty to add the municipal grant to the requisition?

2. Rural public school section. On account of an omission in the school rate of 1898 the school rate is higher this year. The owner of a farm rented it last winter. Which should pay the additional tax this year, the owner or the tenant?

3. Under the Drainage Act. On passing amended by-laws is it necessary to make a motion to have them read the second and third time before being finally passed?

1. No.

2. This depends on the agreement between the owner and the tenant at the time the property was leased. You do not say who then agreed to pay the taxes. If the lease was in writing we should have a copy of it. If the tenant agreed to pay all taxes he will have to pay the additional tax you refer to.

3. You do not say whether your council has any by-law or rules of order governing the conduct of business by your council. The usual course pursued by municipal councils is to read all by-laws three times before the final passing thereof, and each reading is preceded by a motion or resolution of the council, duly moved, seconded and carried, that the by-law be read a first, second or third time as the case may be.

Detention Strayed Animals—Procedure.

488.—J. W.—About Oct. 20th last, five calves came on my premises. After enquiry, and failing to find an owner, I advertised three times in a local paper. Now what course should I pursue in regard to them? Should I sell them, or what?

The owner of the animals not being known to you, you should, in addition to advertising in the local newspaper as required by section 11 of the Act Respecting Pounds (R. S. O., 1897, chapter 272), deliver to the clerk of the municipality the notice required by section 9 of the act. By section 13 notices for the sale of animals of the kind mentioned cannot be given for two months after they have been taken up. See section 13 of the act. The notices of sale shall be given in the manner provided by section 14 of the act.

A minister having preached a very long sermon, as was his custom, some hours after asked a gentleman his candid opinion of it; he replied that "'twas good, but it had spoiled a goose worth two of it."—Tit-bits.