

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 stamp addressed envelope. All Questions answered will be published unless \$1 is enclosed with request for private reply.

Disposal of Bodies of Persons Dying in House of Industry

395—UNDERTAKER.—Section 10 of by-law "county" governing county house of refuge, says sufficient ground shall be set apart for a burial ground, etc., for the burial of such of the inmates that may die whose friends do not claim their bodies for interment. The committee claim that such bodies must be delivered to an inspector of anatomy and that they cannot bury them in a poor-house plot.

1. What is the usual practice for disposal of such bodies at county house of refuge?

2. Which law governs, the county by-law or the provincial law?

3. If the committee decide to do so, can they bury such bodies in plot without putting the machinery of law into operation in respect to unclaimed bodies and Act governing inspector of anatomy?

1. There is only one course that can be legally pursued in disposing of the bodies of persons who die in a county house of industry, which are not claimed by relations or *bona fide* friends within twenty-four hours after death, and that is the course prescribed by sec. 2 of the Ontario Anatomy Act, (R. S. O., 1897, chap. 177). This section provides that such bodies shall be immediately placed under the control of the inspector of anatomy for the locality in which the house of industry at which the death occurs is situated, to be disposed of by him in the manner provided by the Act.

2. The Provincial law.

3. No. We might add that the Act applies only to the bodies of those who immediately before death had been supported in and by any public institution—the words "public institution" include, of course, a county house of industry.

Construction of Local Improvements Under Section 678, R. S. O., 1897, Chapter 223.

396—G. G. A.—I enclose a copy of a general by-law passed under section 667 of the Municipal Act, also a copy of a notice published in pursuance of section 669 and 671 (4). It is proposed to levy one-third of the cost of the works on abutting property benefited and remainder on the whole municipality. I was first in doubt as to the necessity of giving any notice of the council's intention to initiate the improvements under section 678 (1), but on reading subsection 2, it seemed to be necessary to give the notice (under section 671, 4). The court of revision mentioned in the notice was held, but, there being no appeals, it was adjourned to await the completion of the works until the final cost can be apportioned and assessed. The court was perhaps unnecessary except to settle any frontage measurements in dispute.

1. Was the publication of the notice strictly necessary for works initiated under section 678 of the Act?

2. Would a three-fourths vote of the mem-

bers of the council (678, 1) be sufficient to enable the council to proceed with the work and apportion the cost thereof notwithstanding any petition against the same, in other words, could the council have proceeded with the works without giving notice or regarding any petition received?

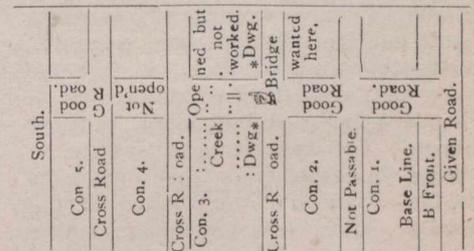
3. Where a number of different works or improvements are included in one such notice as in this case, would a petition, in general terms, protesting against the works without specifying the several portions objected to, be held sufficient or applicable? (As to two or more works in one notice see Municipal Amendment Act, 1901, section 28.)

The meaning of section 678 is not clear. Some time ago in considering it we came to the conclusion that it was not the intention to give the council power to undertake the works therein mentioned without regard to sections 668 or 669, but after a more careful consideration we are of the opinion that the works mentioned in this section can be initiated by the council. If you will look at section 677 you will find that that section gives express power to do the work therein specified without petition. This section is quite clear. Then follows section 678, the heading of which is "or may pay part of cost of improved sidewalks." The heading of 677 is, "cities and towns may lay plank sidewalks without petition or notice." Taking the heading of 677 and the section itself, it is very simple and easily understood. This is not the case, however, with section 678. The heading says nothing about the power of the council to undertake any particular work. This heading, so far as a heading can be considered in interpreting a statute, simply says that certain councils may pay part of cost of improved sidewalks. Then when you consider the section itself it reads as if the legislature intended simply to give the council power to raise funds in a particular way and to charge part of the cost against the municipality at large, rather than to give the council power to initiate work independently of sections 668 and 669. There is no express power given as is given by section 677. The only words in the whole section which can be referred to as giving the power to undertake works independently of sections 678 and 679 are the words, "Where sidewalks or streets have been or are hereafter made or paved under this section, etc." There is nothing in the section before these words, giving the council power to do the work. These words naturally imply that there are words preceding them which give the power, but, as we have stated, there are no such words. The words

above do not expressly give the power. They pre-suppose a power already given. The question is, did the legislature intend to give the power to councils to initiate works under it? If it did it can only be said to have done so impliedly, by force of the words beginning with "Where sidewalks, etc." Though the legislature has expressed its intention in a clumsy, inartistic manner, we have come to the conclusion that it intended to give the council power to initiate work under this section, though we did not at first think so. This disposes of the first question which appears to have given you some difficulty. The next question then is, "Is it necessary in a case under the section to give the notice provided by section 671 (4). In answer to that, we say yes. That appears necessary under subsection 2 of section 678. The intention appears to be that the property owners should have the same notice and the same rights as in other cases, to complain of their assessment. In regard to the third question as to whether a petition in general terms against the proposed works, without specifying the several portions objected to, is good or not, we are of the opinion that it is not good; but the safer course for the council in such a case is to treat it as good and not undertake the particular work which they no doubt know, apart from the notice, is the part of the work objected to. This course would be fair, and is the one which ought to be taken.

Council Should Build Bridge or Close Road.

397—A. C.—Enclosed please find a diagram of a certain road allowance which is crossed a number of times by a creek. I have marked the parts of road opened and not opened; there is also a little over a quarter of a mile opened that has never been improved more than clearing off the timber. Then where the creek crosses just south of the dwellings on the top of the hill there has been statute labor performed by the owners of the farms in concession 3. Now one of these is asking that a bridge be built over said creek. The council decided to grant the request on the ground that statute labor had been done on the road and consequently should be kept up. The bridge, if built, would not add to the convenience of any one getting to and from market, but to and from work on their farms, drawing grain, hay, manure, etc. Now the question has been asked, is it legal for the council to build the bridge seeing the want of it does not keep any one from market or other convenience or necessity except that connected with the working of their farms?



Statute labor has been performed on both hills immediately adjoining bridge.

The council should either build the bridge, or, if it is not necessary for the convenience of the public that it should