

QUESTION DRAWER

Subscribers are entitled to answers to all Questions submitted if they pertain to Municipal Matters. It is 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 will be published unless One Dollar is enclosed with request for private reply.

Council May Pay Cost of Cement Sidewalk Out of General Funds.

415—A. W. T.—1. Our council contemplates laying a quantity of cement sidewalks and paying the whole cost of the same out of the general funds. Can they do this? Must not they comply with sections 677 and 678 Municipal Act?

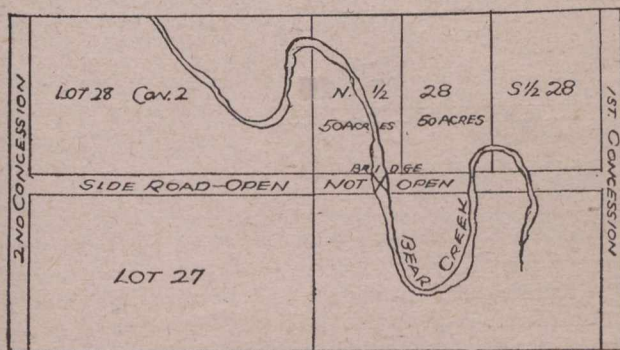
2. What proceedings are necessary to take to restrain the council if their act is illegal.

1. It is optional with the council as to whether it constructs cement sidewalks as local improvements in accordance with the provisions of sections 677 and 678 of The Consolidated Municipal Act, 1903, or not. If it sees fit it may legally construct these walks out of the general funds of the municipality, but if the amount required to pay for them is not to be repaid within the municipal year in which the money was expended, the assent of the electors will have to be obtained to a by-law providing for the issue of debentures to raise the amount required. We assume that the council has not passed a by-law under section 682 of The Municipal Act.

2. Our answer to question number one renders it unnecessary to reply to this.

Obligation of Council to Maintain Bridge.

416—P. M. P.—There is a sideroad here open to the blind line between the first and second concession and there is a bridge about eighty rods south from the blind line on the part not opened of



sideroad. The council about twenty years ago gave about \$50 to help build the said bridge and have repaired it at least twice since, but now wish to close the bridge as it needs a new one and the road-way is closed at both ends. The north half of lot 28, 1st concession, has been purchased by two brothers who have divided it into two parts of 50 acres each; one of which is south of bridge and has no other way to get out. Is the council bound to build and maintain the bridge (the cost will be nearly as much as the farm is worth) or can they remove the cover of the old bridge and abandon it, the road not being open at either end of it?

The road allowance on which this bridge was built does not appear to have ever been opened for use as a public highway. The council cannot be compelled to open it for this purpose, nor should it do so, unless the convenience of the general public demands it. Since the council is not bound to open the road, it would be a useless expense to rebuild the bridge, and this should not be done simply for the benefit of a private individual. In refusing to rebuild and maintain the bridge, we do not

think the council would be contravening the provisions of section 629 of The Consolidated Municipal Act, 1903, as the owner or owners of the lands affected never had ingress or egress thereto or therefrom over this bridge and road.

Majority Necessary to Carry Money By-Law.

417—J. S.—Our council are submitting a by-law to the people for the purpose of raising \$4,500.00 to purchase a new dynamo and to do certain repairs to the waterworks. What vote is required to carry the by-law for creating debts, is it a majority of the rate-payers (owners) voting or is it a majority of the ratepayers (owners) on the voters' list and entitled to vote? If the latter should the names of parties known to be dead be put on the list to be made out by me for the several wards?

If a majority of the voters in the municipality qualified to vote on a money by-law under the provisions of sections 353 and 354 of The Consolidated Municipal Act, 1903, who record their votes, vote in favor of a by-law of this kind, it should be declared carried. The voters list used on the occasion of a vote of this kind should be one specially prepared by the clerk in accordance with the provisions of section 348 of the Act, from the "then last revised assessment roll" of the municipality, without any reference to the MUNICIPAL voters' list.

Delayed Issue of Debentures.

418—T. G. T.—On April 20th, 1903, the ratepayers by a majority of four carried the enclosed by-law. Some opponents applied to have it quashed, the case dragged on until February, 1904, when the application was dismissed and the by-law declared valid. Of course while the case was in the courts no levy was made and I am in doubt whether No. 1 debenture should be dated July 23rd, 1903 or 1904. If 1903 a double levy will have to be made this year. Also let me know if the council can issue the debentures making them payable December 1st in each year as on that date our yearly taxes would be collected?

Section 10 of The Municipal Amendment Act, 1904, makes provision for a case of this kind. It adds the following sub-section to section 384 of The Consolidated Municipal Act, 1903:

(11) In the event of an action or proceeding being instituted to set aside the by-law or question its validity or to enforce the payment of any bonus or the issue of debentures thereunder, the debentures by the by-law directed to be issued may be issued and dated within six months after the final determination of such action or proceeding notwithstanding that two years may have elapsed after the passing of the by-law; and the annual rate directed to be levied by sub-section 5 of section 384 and sub-section 2 of section 386 may begin from the date when the debentures are issued notwithstanding that the by-law may have fixed a different date. This sub-section shall apply to by-laws passed after the 15th day of April, 1901.

Proceedings on Establishment of New Road.

419—W. D.—1. Is it necessary for a municipal council to post up notices and publish in a newspaper as per section 632 and following sub-sections of the Municipal Act if the land required for opening up a new road be acquired by deed from the owner?