

Non-Resident Pupils.—Exemption of Manufacturing Co. from Taxation.

101—H. L. B.—1. Are children whose parents live in another county and who own no property in S section but children board in S. S. either with relatives or pay board, non-resident?

2. How long can a township municipal council (with the assent of ratepayers), grant any manufacturing company exemption from taxes?

3. If only for ten years can they in any way or by any means guarantee a company a further renewal of exemption? For example say a company should ask for a twenty-five year's exemption.

1. If these children are residing temporarily in the school section, in which they attend school, while they attend and for the purpose of attending this school, and still retain their permanent place of abode at the residence of their parents, they are non-resident pupils, and their parents or guardians can be required by the trustees of the school section in which they attend school to pay fees under the authority of sub-section 2 of section 95 of the Public Schools Act, 1901. If, on the contrary, these children have become permanently domiciled with any relative or other person in the school section, visiting the home of their parents, occasionally, they are resident pupils, and the fees mentioned cannot be exacted.

2. Ten years, with the power at its expiration to renew the exemption for a further period of ten years. (See clause (g) of section 10 of chapter 33 of the Ontario Statutes, 1900.)

3. A township council has no power or authority to give any company such a guarantee as that mentioned.

Responsibility for Repair of Sidewalk in Incorporated Village.

105—S. N.—About twenty years ago there was built in our village, (which is unincorporated) a sidewalk which is now pretty dilapidated.

1. Would the council be responsible for any damage arising from its unsafe condition?

2. Could they be compelled to build new or repair and if so could they replace it with whatever kind of a walk they saw fit to put down or would it have to be with plank the same as the old one?

3. Would time make any difference? Does not the council assume all responsibility as soon as they allow the walk to be put down?

4. Could they remove it?

1. By section 606 of the Municipal Act, the councils of municipalities are bound to keep in a reasonable state of repair all highways under their respective jurisdictions. The term "highway" includes the portion of a road allowance used by pedestrians as well as that travelled by horses and vehicles. So long, therefore, as this sidewalk is allowed to remain on this road allowance, it must be kept in a reasonable condition of safety by the council of the township municipality, and, if through its lack of repair, any person meets with an accident, and is injured, the township corporation will be liable for the damages thus sustained.

2. The council cannot be COMPELLED to build a new sidewalk, but, as long as it is allowed to remain there, it should be

kept in a condition of safety. If the council deems it advisable to rebuild this sidewalk they can use such material in its construction as they see fit.

3. The lapse of time does not affect the liability of the council to keep this walk in repair so long as it is allowed to remain on the highway, and the municipality's responsibility for keeping it in repair begins as soon as the walk is first laid.

4. Yes.

Sale of Timber on Unopened Road Allowance.

106—J. R.—Council wishes to sell timber off unopened road allowance as allowed by section 649 (7) of the Municipal Act. Can it legally sell timber without first passing a by-law for opening such allowance for road? The road is not required for public use but the line on one side was run by an O. L. S. sometime ago. No other road is used in lieu of this one.

Sub-section 7 of section 640 of the Municipal Act empowers the councils of townships to pass by-laws for preserving and SELLING timber, etc., subject to the Act Respecting Timber on Public Lands. In this instance, subject to the provisions of sections 7 to 13 inclusive of chapter 32, R. S. O., 1897, the council can pass a by-law for selling the timber on this road allowance, without first passing a by-law to open the road allowance. Care must be taken, however, that the road allowance is properly located, so that there will be no encroachment upon the lands of adjoining owners.

Municipal Business Transacted by Disqualified Councillor Legal Until Election Voided.

107—POSTMASTER—The council of this township has had its first meeting. Members have taken oath of qualification and declaration of office. There are two of the members school trustees. Would the business transactions be legal with two school trustees as members of the council? If not, what steps should be taken to have new ones put in their places and whose duty to look after same?

The two members of the council who were at the time of the election school trustees, can legally transact the business of the municipality until their seats become vacant. No proceedings can be taken for the election of other persons to fill these offices until the seats held by those already elected become vacant. They may be vacated voluntarily by disclaimers, or by the courts. (See section 238 and following sections of the Municipal Act.)

Qualification of Member of Local Board of Health.—Of Clerk of Division Court.—Imposition of Tavern Licenses.

108—J. L. L.—1. Can a ratepayer who has been appointed a member of the board of health by a previous council at a salary of \$3.00 a year be elected or hold a seat on the council board without first resigning his seat on the board of health, he of course having acted on the board of health and his time unexpired?

2. If not, can he resign both and be re-elected or should the defeated candidate polling the highest number of votes be declared elected?

3. Can the clerk of a division court be a member of a municipal council?

4. Does the \$200 to which a village council can raise hotel licenses include the government's share of license fees?

1. Although the Municipal Act does not in specific terms disqualify a person under the circumstances set forth in your enquiry, still, in order to avoid all difficulties and complications, we have hitherto expressed the opinion and now adhere to it, that a member of a Local Board of Health intending to be a candidate for membership in the municipal council should resign his membership of the Local Board of Health, and have it accepted prior to Nomination Day.

2. If the candidate elected files a disclaimer under the authority of section 238 or 240 of the Municipal Act, the candidate having the next highest number of votes shall then become the member elected, as provided by section 241 of the Act.

3. Yes, if he possesses the other necessary qualifications and obtains a sufficient number of votes to elect him.

4. The amount required by a by-law of the village council passed pursuant to sub-section 1 of section 42 of the Liquor License Act to be paid for tavern or shop license, does not include the sum payable for the use of the Province under the authority of sub-section 1 of section 44 of the Act, "unless the municipality by by-law otherwise provides." (See sub-section 1 of section 44.)

Corporation Tax for Electric Lights.—Private Banker Cannot Act as Reeve.

109—G. P.—Can a corporate village tax the farmers, who live inside of the corporation, for electric lights?

2. Can a private banker act as reeve and handle the money for the village?

1. We cannot answer this question with the information we have at hand. We must at least know whether the farmers own or occupy any taxable property within the limits of the village, and the process by which the electric lighting plant was originally installed.

2. No, he would then be a person having an interest in a contract with the corporation, of whose council he is a member, and sub-section 1 of section 80 of the Municipal Act says that no such person shall be qualified to be a member of the council of any municipal corporation.

Equalization of Union School Section Assessment in Unorganized Territory.

110. E. G.—A union school section is formed partly in an organized and partly in an unorganized township. The school house is in the unorganized township. Chapter 292 section 51, S. S. I, states that the assessors are to meet and determine what proportion, etc. Sub-section 4 states that the meeting of the assessors shall be called by the assessor of the municipality in which the school house of the union section is situated. This has not been done for years. In the event of the assessor refusing to call this meeting, who can compel him to do so and how can it be done? Can the council of the organized township do anything in the matter?

The section you quote (now sub-section 1 of section 54 of the Public Schools Act 1901), does not appear to fit this case