

Public Schools Act, 1901, it is made the duty of municipal auditors, in urban municipalities to audit all accounts, books and vouchers of the school board, and they must be assumed to know that this is a part of their duty when they accept the office at the salary agreed to be paid them by the council. They must therefore perform this duty, otherwise the council is not bound to pay them their respective salaries.

Appointment of Engineer Under Drainage Acts—Voting Qualification of Tenant.

208—K. C.—1. What form of by-law would you recommend for the appointment of engineer for the purposes of the Municipal Drainage Act?

2. Would an engineer appointed for the purposes of the Ditches and Watercourses' Act, be qualified to act under the Municipal Act without another by-law appointing him?

In some cases engineers are appointed under the Ditches and Watercourses Act, only to be authorized by resolution of the council to execute a municipal drainage work, hence the above questions.

3. Should a non-resident tenant or leaseholder have a vote if he leaves land for seven years at a time?

1. The Municipal Drainage Act (R. S. N., 1897, chapter 226,) does not make it necessary that a council should pass a by-law every time it employs an engineer to perform any services under the authority of the Act. A resolution instructing any engineer whom the council considers competent for the purpose, to proceed with the work, is all that is required.

2. Yes. If he is employed by resolution of the council to perform the services required in any particular case. The mere fact that he has been appointed engineer for the municipality by by-law under the provisions of the Ditches and Water Courses Act (R. S. O., 1897, chapter 285,) does not render him ineligible to perform services for the council so appointing him, under the provisions of the Municipal Drainage Act, if such council requests and instructs him to do so.

3. If this tenant possesses the other qualifications required by section 86 of the Municipal Act, if he has resided in the municipality in which the election is held, for one month next before the election, and is, or his wife is, a tenant in the municipality at the date of the election, he is entitled to vote thereat.

Payment of Assessor for Equalizing School Section Assessment

209.—M. E. L.—Who should pay the assessor for equalizing union school sections? In a letter written by the Deputy Minister of Education (see August, 1902 number of the WORLD) he states that the assessor's work should be paid out of the funds of the union section. If such is the case, kindly quote chapter and section.

The assessor should be paid by the Board of Trustees of the union school section for doing this work. Such is the opinion of the Education Department as expressed in the letter from the deputy minister, you refer to, and of the county judge in a case against the Township of Douro, reported on page 178 of THE

WORLD for 1901, (November issue). Under the authority of section 54 of the Public Schools Act, 1901, this work is done for, and redounds to the benefit of the rate payers of the union school section only and it is fair and just that they should pay for it, instead of the ratepayers of the township generally through the medium of the council.

Opening of Road Allowance—Payment of Wire Fence Bonus—Rights of a Defaulting Contractor—Expropriation of Land for Road—Compensation for

210—A. McL. A.—Between A and B there is nearly three-quarters of a mile of side road that never was opened for public travel. There was a fence (used as a line fence) built on centre of road allowance, there are three or four very deep ravines. It would cost between \$3000 and \$4000 to make any kind of road of it for public travel. It would be impossible to get a deviation that would be suitable. If either were opened the general public would not use it. A and B want council to rent them the road and they will build a new wire fence on the centre of road allowance. This we know we cannot do without giving a deviation. If not, they say they will build their fences in their proper places and tax us \$60, wire fence bonus which is in force in our township.

1. Is a council supposed to open a road like this that would almost sink the township?

2. Can this road allowance be called a road, taking it for granted that it cannot, with reasonable cost be opened?

3. Can they compel council to pay the bonus if they build these wire fences in their proper places?

B. Council of 1902 let a contract of cutting down a hill to A. He was to have it completed on or before 1st October. A. gave B. security in double the amount of contract. The summer being so wet A. was unable to complete the contract. Council took no action in prosecuting A. and B. Before 1st October A. was paid one third of value of contract. A. was working at contract after 1st October. There is considerable work to do yet.

1. Is the contract void?

2. Has either party any claim on the other?

C. In another part of our township there is a piece of road allowance on which there are some very bad hills to keep in repair on account of land slides, etc. At the foot of one of these hills there is an old bridge completely out of repair. The council do not feel like putting any more money on this road. D. who owns land next to this road, wants to exchange a deviation for this old road allowance. I know he will ask the council a big sum taking for his guide what the township will save in preparing the new road instead of the old.

1. If we cannot agree and D. objects to make a deal under any consideration, can we force an arbitration?

2. Explain the best way to go about this.

A. (1) It is optional with a municipal council as to whether it opens a road allowance, in the municipality, and it should not do so unless the convenience of the public renders such a course a necessity. Even if it is an ORIGINAL road allowance, the law does not COMPEL the council to open it.

(2) If this strip of land was originally laid out or reserved for the purposes of a public highway it is a road allowance vested in, and under the jurisdiction of the municipality, although never opened for public travel.

(3) As to this we must see a copy of the township by-law relating to the matter before we can give a definite answer.

B. (1) No, unless it so provides.

(2) If the municipality has sustained any damages, by reason of the failure of A to complete his contract within the time agreed upon, it can recover the amount from A and his surety by ordinary action at law.

C. (1 and 2) If the council considers it advisable to close or stop up and dispose of this road (as is authorized by sub-section 1 of section 637 of the Municipal Act) after taking the preliminary proceedings prescribed by section 632 of the Act, and to enter upon and use for the purpose of opening up and establishing a new road, a portion of lands of D (which the council is authorized to do, by sub-section 2 of section 637), and the council and D cannot arrive at a mutual agreement as to the amount of the compensation to be allowed to D for the portion of his land taken for this purpose, section 437 of this Act provides for the settlement of all differences between them by arbitration under the Act. As to the mode of appointing arbitrators see section 448 and following sections of the Municipal Act.

Power of Councils to Rent Halls for Meeting Purposes.

211.—A SUBSCRIBER.—There are two private halls in the centre of our municipality. It is necessary for our council to rent one of those halls each year as they have no town hall.

1. Has our council the right to rent one of those halls for a term of years, as they have to meet at the clerk's office each year and take declarations of office before renting a hall to meet in?

2. If so, in what way, by resolution or by-law?

1. It is not stated whether the hall the township council desires to rent is located in a town or village within or partly within the original boundaries of the township or not. If it is, sub-section 3 of section 534 of the Municipal Act empowers the council to rent it. If it is not so located, there is no authority conferred on a township council for this purpose. Sub-section 1 of this section empowers a township council to obtain such REAL and personal property as may be required for the use of the corporation, and to erect, improve, and maintain a hall thereon.

2. The council should pass a by-law in a matter of this kind.

Appointment of Pathmasters, &c., and duties of as to Making Declarations of Office, &c.

212—S. J. S.—1. Can a municipal council appoint its pathmasters, poundkeepers and fenceviewers for a longer time than one year, as it is a good deal of expense getting them to take the declaration every year?

2. If they have not taken the necessary declaration of office, but have been appointed by by-law and have accepted the appointment and acted as such officers, can they do so legally if contested by the Courts?

1. Yes. Although it is usual for councils to appoint these officers for one year only, and the council for the year following the appointment of any of these officers, may repeal the by-law appointing them, and appoint others in their places.

2. The fact that these officials have not made the required declarations of office, does not render any of their official acts illegal.