

warden respectively. This involves the receiving and sending of certain returns and statements by the treasurer from and to the clerk, and therefore, we think that these officials should be separate persons. In towns not having the right to sell lands for taxes, we are of opinion, that these offices can legally be held by the same person.

Liability for School Debentures—Duties of Medical Health Officer, Members of Local Board of Health and High School Trustees as to Declarations of Office—Duties of Auditors as to School Accounts.

202.—J. B.—1. When we issued debentures some years ago to build a public school, is the property at that time held by public school supporters liable for debentures until all are paid, although it may have passed into the hands of separate school supporters?

2. Should the health officer, medical health officer and high school trustee take the declaration in revised statutes, chapter 223, section 313, the appointment having been made by the council?

3. If our municipal auditors find something wrong in the public school accounts, said wrong extending back over several years, said auditors refuse to go back further than last year, what is to be done? Is it the duty of the council to investigate? If so, where is our authority?

1. Yes. See sub-section 5 of section 42 of the Separate Schools Act (R. S. O., 1897, chapter 294.)

2. If by "health officer" members of local boards of health are meant, they, and a high school trustee appointed by the council, not being officers of the municipal corporation within the meaning of section 313 of the Municipal Act, are not required to make the declaration in this section mentioned, before entering on the discharge of the duties of their respective offices. A medical health officer, however, is an officer of the municipal corporation within the meaning of this section, being appointed by the council at a salary fixed and paid by them. (See section 31 of the Public Health Act, R. S. O., 1897, chapter 248.) and is subject to dismissal by them. (See section 34 of the Act), and should make this declaration before entering upon the duties of his office.

3. We do not think that it is any part of the duty of the municipal council of this village to concern itself as to the sufficiency or otherwise of the audit of the accounts of the public school board. If the board or the ratepayers are dissatisfied with the manner in which the auditors have performed their duties, or think that there is anything wrong with the public school accounts, the matter should be brought to the attention of the Provincial municipal auditor, who is empowered by section 9 of chapter 228, R. S. O., 1897, to hold an investigation.

Duties of Auditors and Clerk as to Report of Former.

203.—C. F. S.—1. At our first council meeting January 12th, 1903 the council appointed their auditors and the auditors audit the treasurer's account for the M. of R. on the 24th day of January, 1903, and they filed one copy in the clerk's office, and one they sent to the Bureau of Industries. The clerk took a copy of the report and published in the *Star Enterprise*. On the 13th of February the

reeve of our township came to my office and told me that I had no business to publish the auditor's report and send a copy to the Bureau of Industries, as the report has to be first accepted by the council. Who does appoint auditors? 2. Please give me the address of the new Canadian cement manufacturing company.

1. Sub-section 1 of section 299 of the Municipal Act, as amended by section 8 of the Municipal Amendment Act, 1898, provides that "Every COUNCIL shall at the first meeting thereof in every year after being duly organized appoint two auditors." Sub-section 2 of section 304 provides that "the auditors shall, under a penalty of \$20 in case of default, transmit by mail in a registered package, one copy of the abstract and also one copy of the detailed statement in such form as these have been SUBMITTED TO the council, to the secretary of the Bureau of Industries, Toronto, and shall file the other abstract together with the other detailed statement and reports, in the office of the clerk of the council within one month after their appointment." It will thus be seen that the auditor should send the copies of the abstract and statement prepared by them, to the secretary of the Bureau of Industries, and that the reeve or clerk has nothing to do with the performance of this duty. Section 306 prescribes the duties of the clerk in reference to the auditor's abstract and report, after they have been accepted by the council. It provides that he "shall publish the detailed statement in such form as the council directs," and in the case of a local municipality, the clerk shall transmit to the clerk of the county council, a copy of such abstract and statement, etc."

2. The Owen Sound, Portland Cement Co., (Limited), Owen Sound, Ontario, Geo. S. Kilbourn, secretary-treasurer.

Tax Bark of Non Residents Assessable.

204.—T. L.—Can the Assessor assess the tax bark of non-residents piled in the municipality.

Yes. This class of personalty is not exempt from assessment and taxation under the provisions of the Assessment Act, and section 38 of the Act (sub-section 1) provides as follows: "All personal property within the Province, the owner of which is not resident in the Province, shall be assessable like the personal property of residents, and whether the same is or is not in the possession or control, or in the hands, of an agent or a trustee on behalf of a non-resident owner, and all such personal property of non-residents may be assessed in the owner's name, as well as in the name of the agent, trustee or other person (if any) who is in the possession or control thereof."

Opening Road Allowance—Compensation to Owners of Expropriated Lands—Aid to Agricultural Society.

205.—A. A. Y.—The municipality of H— township has given legal notice by posting and advertising by-law, registered plans of survey of a new road through deeded property and given a copy of the by-law so passed to the interested parties. What course is now necessary to pursue to lay down fences and take possession of the road?

2. Should compensation be made first to

property owners affected, and what steps should be taken to settle with said property owners?

3. The Agricultural Society of the municipalities of H— and C— want to raise money for the purpose of securing land and buildings to carry on yearly exhibitions of the society and can raise sufficient for that purpose if the municipalities of H— and C— will guarantee 6 per cent. interest per annum on the amount so raised. Can a council for this purpose legally grant interest for a number of years?

1. Provided the by-law is properly prepared, and the road proposed to be opened is accurately described therein, and all the proceedings leading up to its passing, prescribed by the Act, have been regularly taken, the council may take possession of the road and remove any obstructions found upon it with the view of putting it in proper condition for public travel.

2. It is not necessary that compensation should be paid to the owners of land expropriated for the purposes of this road prior to its being entered upon and taken by the corporation (*Harding v. Township of Cardiff—29 Grant, 368*). If the council and the respective owners cannot agree upon the amount of the compensation to be allowed the latter for lands taken for the purposes of this road, it will have to be determined by arbitration proceedings taken pursuant to the provisions of the Municipal Act. (See section 437.)

3. No, but under the authority of sub-section 1 of section 591 of the Municipal Act township councils may pass by-laws "for granting and loaning money, etc., in aid of Agricultural Societies." (See also section 45 of chapter 43, R. S. O., 1897.)

Township Council Can Purchase Land for Municipal Purposes, and Dispose of Same When not Required

206.—ENQUIRER.—Is it legal for a township council to purchase lands for municipal purposes without the consent of the electors, and also to dispose of the same again if they wish?

Sub-section 1 of section 534 of the Municipal Act provides that councils of townships may pass by-laws for obtaining such REAL and personal property as MAY be required for the use of the corporation and for erecting, improving and maintaining a hall and any other houses and buildings required by and being upon the land of the corporation AND FOR disposing of such property when no longer required." A by-law of this kind does not require the assent of the electors before its final passing, unless the sum to be paid for the property to be acquired, is not to be paid within the same municipal year in which it is raised, in which case it must receive the assent of the electors of the municipality as provided in sub-section 1 of section 389 of the Municipal Act.

Duty of Auditors as to School Accounts.

207.—N. C.—Would like to know if our municipal auditors are not obliged to audit our school accounts free of charge. We are an urban municipality. They claim they have no right to audit same without being paid. Our municipal auditors have always audited our accounts in the past. I have shown them the School Act on that point and they still object.

By sub-section 11 of section 65 of the