

### Assessment for Separate School Purposes—Distress for Taxes—Qualification of Auditor and School Trustee.

119—J. B.—There are some ratepayers in our municipality that own property in two school sections, one is a public school, the other a Roman Catholic separate school, the property is three and three-quarter miles apart.

1. Is it legal to have the two properties assessed for the separate school. Party living in the separate school section?
2. Can taxes be distrained out of the county?
3. Can a school treasurer of 1903 and 1904 be auditor for the municipality, that is according to law?
4. Is it legal to appoint a sanitary inspector of 1903 to audit the books of the municipality for the same year?
5. Can a municipal treasurer legally hold the office of school trustee?

1. There is no such thing as a separate school SECTION having regularly defined limits. A separate school, when established under the provisions of chapter 294, R. S. O., 1897, is supported by such ratepayers in the municipality or in a municipality contiguous thereto, as are assessed as separate school supporters under the provisions of the statutes or have given the notice mentioned in section 42 of The Separate Schools Act. If the owners of these lands have been properly assessed as separate school supporters pursuant to sub-section 5 of section 13 of The Assessment Act, or section 49 of The Separate Schools Act, or have given the notice mentioned in section 42 of the latter Act, and the lands are located in the municipality in which the separate school is situated or in a municipality contiguous thereto, the owners are properly assessable as supporters of the separate school.

2. No. (See clause 1 of sub-section 1 of section 135 of The Assessment Act).

3. Yes.

4. Sub-section 1 of section 299 of The Consolidated Municipal Act, 1903, provides that no one who, during the preceding year, had a share or interest in any contract or *employment* with or on behalf of the corporation shall be appointed an auditor. A sanitary inspector is an official of the corporation, appointed and paid by the council under the authority of section 31 of The Public Health Act (R. S. O., 1897, chapter 248,) and therefore cannot legally be appointed auditor of the accounts of the municipality for the year subsequent to that during which he held office.

6. There is nothing in the statutes prohibiting a municipal treasurer from holding the office of school trustee, but we are of opinion that these two offices are incompatible, and should not be held by the same person. It is the treasurer's duty to pay out school moneys to the several boards of school trustees in his municipality, and as municipal treasurer he cannot pay these moneys or any portion of them to himself as school trustee.

### Law as to Exemption of Manufacturing Establishment from Taxation.

120—SUBSCRIBER—A manufacturing establishment with its machinery was burned in our township. The proprietor applied to the council for exemption from municipal taxation for the term of ten years, stating that he could not rebuild unless such exemption was granted.

The council passed a resolution granting the above exemption on certain conditions (such as the number of hands to be employed, etc.) and ordered that a by-law be prepared in accordance with the resolution.

The by-law has never been passed by the council. The proprietor of the manufactory has rebuilt and is about ready to start manufacturing the same kind of article as before. Since there has been an election and part of the council is composed of new men who are opposed to exemptions.

1. Would this be considered a new industry and is it within the power of the council to grant exemption under the circumstances?

2. If so, can the present council be compelled to pass a by-law to that effect and carry out the resolution mentioned?

1. The proposed exemption from taxation is a "bonus" within the meaning of section 591a of The Consolidated Municipal Act, 1903, and cannot be legally granted by the council until a by-law providing therefor has been submitted to and received the assent of the duly qualified electors of the municipality in accordance with the provisions of sub-section 12 of section 591 of the Act.

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

### Assessment of Executor, and His Responsibility for Taxes.

121—C. B.—A person, a non-resident residing in the city adjacent to this municipality, and who is a son of a deceased owner of land in this municipality, applied some time ago to be assessed as executor of his father's estate, which was done, the said son has been assessed for said property since and has always paid the tax without dispute. Last year he was assessed as freeholder and did not appeal therefrom. When the collector presented tax bill, he promised to pay the tax the first of January inst. When the collector asked for tax he replied he had no funds and claimed the tax could not be recovered from him, that he had been wrongfully assessed as owner, that he was only an agent. The said person is a non-resident of the municipality, he resides in the city in the same county.

1. Can the collector safely seize for the taxes, the assessor having made the change referred to?

2. Would the said change make any difference?

1. This property should have been assessed as is provided by sub-section 3 of section 13 of The Assessment Act, but in view of the provisions of section 72 of the Act, we do not think that the executor of the deceased owner can now escape payment of the taxes. If he neglects or refuses to pay them, the collector can seize any of his goods, not exempt from seizure, and wherever found within the county, and sell them to realize the amount.

2. No.

### Arrangements for Sending Protestant Children to Roman Catholic Separate Schools.

122—N. C.—The public school has dissolved and some of the parties would like to send their children to the separate school without giving the necessary notice to join again they want to know how much the separate school would charge for their children monthly.

1. What would be the charge if accepted?

Others, it is said, will deed a part of their lots which may be vacant to their wives and assess them to the separate school, the balance of their lots to any public school they may choose three or four miles away.

2. How can their wives assess to the separate school when they are not widows nor spinsters. Can the trustees receive protestant children when the teachers are willing to teach them?

1. The statutes make no provision for a case of this kind. The owners or lessees of these lands could not give the notice mentioned in section 42 of The Separate Schools Act (R. S. O., 1897, chapter 294,) as they could not state therein that they were Roman Catholics, as the section requires. If the trustees of the separate school and Protestant parents desiring to send their children to the separate school can agree on the charges and any other terms and conditions of their so doing, there can be no legal objection to this course being pursued.

2. A married woman can be assessed as owner of realty, if she is the owner, and the name of her husband should be bracketed with hers on the assessment roll, in accordance with the provisions of section 19 of The Assessment Act.

### Assessment of Telephone Companies and Gas Wells.

123—A. E. C.—1. The Bell Telephone has erected poles and wires on the highways throughout the business part of the township and have secured subscribers for phones to the number of nearly one hundred, each of whom has been supplied with phones, and have free connection with Welland and other small places near by, besides on all lines in Pelham for the sum of fifteen dollars each per annum. Now what I want to know is about the value per mile for