

**Audit of Books of Union School Section.**

**32—T. G.—1.** Can a municipal council appoint an auditor to audit a union school section's books in defiance of the board of school trustees of said section?

2. Can the board of school trustees legally refuse to deliver up the books to be audited, there being no charge brought against them?

3. What advantage will the audit be to them?

1. No. A municipal council is required by subsection 1 of section 299 of the Municipal Act, and section 8 of the Municipal Amendment Act, 1898, to appoint two auditors to audit its own accounts, and section 22 of the Public Schools Act, 1901, requires the Board of Public School Trustees of every rural school section (including a union school section) to appoint an auditor on or before the 1st of December in each year. If the Board or ratepayers, at their annual or a special meeting, fail to make the appointment, the inspector, shall make it at the written request of two ratepayers. Under subsection 2, of section 9, of chap. 228, R. S. O., 1897, the provincial municipal auditor may, of his own motion, make an inspection, examination or audit of the books of any school board.

2. Yes, unless the auditor is appointed pursuant to section 52, of the Public Schools Act, 1901, or unless the audit is being made by, or at the instance of the provincial municipal auditor.

3. This altogether depends upon the state of the books of the treasurer. If there is any reason for believing that there is anything wrong with these books, an audit by the school auditor or provincial municipal auditor or his appointee would be of considerable advantage to the school board and ratepayers of the union school section.

**Seizure of Goods of Tenant for Taxes.—Duties of Drainage Inspector.**

**33—R. J. W.—1.** A rented a farm from B for a term of years. Last spring A left the farm but was first assessed for it. Then B rented it to C. To whom will the collector look for the taxes?

2. About twenty years ago, in the township of M, a number of drains were constructed under the Drainage Act. The keeping of them in proper repair was neglected until about three years ago, when a drain inspector was appointed by the council, and this year he had a lot of the drains cleaned out. Have the owners of the properties through which the drain runs to do all the work, or pay for the same, or can the drain inspector tax those adjoining to the extent that they are benefited, or tax in proportion to the cost as per profile?

3. If those adjoining can be taxed, should they have first been notified and given the privilege of doing the portion of the work to be their share.

1. To A. who is the person assessed for the premises, and whose name appears upon the collector's roll for the year as liable therefor. (See section 135, of the Assessment Act.) In case no goods or chattels belonging to A liable to seizure for taxes can be found within the county in which your local municipality lies, the collector will have to include these premises in his "no property" return

to the township treasurer; and, unless the taxes are sooner paid, the lands will have to be sold to realize the amount, at the time and in the manner provided in Assessment Act. You do not state whether B, the owner, was assessed. He ought to have been assessed along with the tenant, and if he has been assessed the collector must exhaust his remedies against the owner as well as the tenant before taxes can be returned against the land; and in addition to this, even if the owner's name is not on the roll, his goods on the lands are liable to be distrained, and must be exhausted before the taxes can be returned against the lands. See clause 3, sub-section (1) of section 135, of The Assessment Act.

2. Assuming that the repairs to the drainage works were those mentioned in section 78, sub-section 1, of the Drainage Act. R. S. O., chap. 216, and that the inspector was appointed, pursuant to subsection 2, he can accomplish the cleaning out of the drain only to the extent authorized by this section. We must have more definite information as to the extent to which these drains were cleaned out before we can fully answer this question.

3. Yes. If the inspector was appointed under, and is acting within the purview of the authority conferred upon him by section 78, the owners or persons in possession of the lands adjoining the drainage works responsible for the creation of the obstructions should be given reasonable notice in writing by the council or inspector to remove them, and if they are not removed within the time specified in the notice, the council or inspector shall forthwith cause the same to be removed. As to the collection of the cost of removal, see sub-section 3, of section 78. We cannot express any opinion as to whether the repairs in this case are within section 78, because your question is silent as to the nature of them.

**Clerk's Vote on By-Law.**

**34—J. H. S.—**Can a municipal clerk vote on a by-law to grant a bonus for the erection of a chair factory or other factory? I notice a note in clause 2, of section 179, in Biggar's Municipal Manual, which would debar him from voting, but can see nothing in the statutes on the point.

Section 365, of the Municipal Act, provides that where the assent of the electors or of the ratepayers, or of a proportion of them, is necessary to the validity of a by-law, the clerk or other officer shall not be entitled to give a CASTING vote, and subsection 2, of section 179, that, except under the circumstances mentioned in sub-section 1, no clerk of a municipality shall vote at any LOCAL municipal election. Since a voting on a by-law is a local municipal election, and he is precluded by section 365 from giving a casting vote at such an election, it therefore follows that the clerk has no vote at all under the circumstances you mention.

**Formation of Separate Schools.**

**35—J. C. M.—1.** Two union sections have formed into separate schools. There are a few

Protestants in each section, in one only four families. Can they hold the school-house?

2. Should those joining separate school have notified the clerk before the first of March, or will they have to wait another year before they can form a separate school? They have not notified the clerk yet, but have notified the reeve that they are to form a separate school at New Year, and appointed trustees.

1. The school-houses in the union school section, as they were in existence at the time of the formation of the separate school section, belonged to the board of public school trustees of the union school sections respectively, and remain vested in them until disposed of under the provisions of the Public Schools' Act. The Separate Schools' Act does not fix any time within which a separate school may be established, and, therefore, we can see no reason why the Roman Catholics in this section cannot organize at the time mentioned, and they can give the notice required by section 42 at any time before the 1st of March next, and upon doing that each one who shall have given such notice before that date will be exempt from all public school rates for 1902.

2. The supporters of the separate schools must file the notice mentioned in section 42, of the Separate Schools Act, otherwise they will not be exempt from the payment of public school rate in the school section.

**Procedure When Resignations Defeat Election of Council.**

**36—C. T.—**The nominees at our nomination held on Monday have all resigned except two councillors. What proceedings shall I take to fill the Board?

If the members remaining in nomination, and therefore elected by acclamation, equal or exceed the half of the council when complete, then the members so elected, or a majority of such members, shall order a new election to be held in the manner provided by the Municipal Act (see section 130 of the Act). In case by reason of such retirement, less than half the members of the council are elected, the clerk (as returning officer) shall cause a new election to be held in the manner provided by the Act, and, until such election is held and the number of members necessary to complete the council is elected, the council of the preceding year shall continue in office and may do, or cause to be done, all such acts as a council duly elected for that year might lawfully do. (See section 131 of the Act.)

**Public School Trustee Qualified as Councillor**

**37—P. S.—**Can a man who is a school trustee in our public school hold the seat of township councillor and school trustee at the same time?

Section 80 of the Municipal Act, sub-section 1, disqualifies a trustee of a High School from holding a seat in any municipal council, but neither the Municipal Act, Public Schools Act nor any other statute operates to prevent a trustee of a PUBLIC school from being elected and holding a seat as a municipal councillor.