

Question Drawer.

Subscribers are entitled to answers to all Questions submitted, if they pertain to Municipal Matters. It is particularly requested that all facts and circumstances of each case submitted for an opinion should be stated as clearly and explicitly as possible. Unless this request is complied with it is impossible to give adequate advice.

Questions, to insure insertion in the following issue of paper, should be received at office of publication on or before the 20th of the month.

Communications requiring immediate attention will be answered free by post, on receipt of a stamp addressed envelope. All Questions answered will be published unless \$1 is enclosed with request for private reply.

A School Audit.

174—AUDITOR—The books show embezzlement and I believe the trustees are a party to it. They are doing everything in their power to get me removed from the audit. Taxes are being written off roll by two trustees in favor of the other one. The friends of trustees are in arrears. A few of us here, and non-resident tourists, keep the school supplied with funds, generally. The rate is 20 mills on an \$18,000 assessment. Trustees in 1895 had \$80 ahead and no debt.

On 15th of February, 1897, A, B and C, trustees of school section in unorganized township, borrow from D the sum of \$300, to erect a new school-house, and gave their note with interest at 6% payable in ten months. D also signs an agreement to renew note for one year longer if payment of \$68 is made at the end of ten months, if the trustees cannot pay the full amount. A motion appears in the minute-book as follows: "Moved and seconded, that the trustees be given power to borrow money.—Carried." At annual meeting in 1897, A retires and becomes secretary-treasurer; E is elected. No money is paid to D until July, 1898, when secretary-treasurer pays \$70. D verbally agrees with trustees to accept \$50 per year and interest until \$300 is paid, if trustees cannot pay before. On December 28, 1898, B retires and F is elected. No audit is made. Books now show uncollected taxes at that date (December 28, 1898) amounting to \$360, trustees and their friends in arrears. Instead of collecting, secretary-treasurer borrows \$28.52 to settle indebtedness for 1898. On May 20, 1899, trustees borrow \$100 for six months at 8% and on same day pay D \$68, last loans got without consent of ratepayers. On December 27, 1899, C retires and G is elected. An audit is refused. Books now show taxes due at above date to be \$485. I was appointed auditor by ratepayers for 1900, made a demand to audit in January, 1900, but was refused. Secretary-treasurer borrows \$495 to pay debts on December 27, 1899. On January 17, 1900, without any authority from ratepayers, trustees insure school-house for three years for \$300, pay \$6 premium and assign policy to D who holds policy. On August 22, 1900, secretary-treasurer pays D \$68. On September 1, 1900, trustees send D three new notes \$59, \$56 and \$53 payable in one, two and three years. D still holds the original note for \$300. Trustees ask no liberty from ratepayers to give these notes which overpays D. Before the last annual meeting, I appointed a time for an audit. Trustees appoint a business partner of the secretary-treasurer, who prepares a cash-book specially for me to add up, and when I wanted to compare it with assessment roll, I was not allowed to do so. I kept possession of the roll and since then I have got possession of both the original cash and minute-book and the prepared cash-book. I now find \$400 uncollected taxes. I find \$120 shortage between roll and cash-book. I find secretary-treasurer pays all money without any instructions put on record by trustees. Collector will not give me his receipts from secretary-treasurer. I find secretary-treasurer pays out \$30 and has no vouchers to show. I find false returns made by trustees. I find sums of money paid out that do not apply to school purposes.

1. Will I serve notice of action and sue C, E, F, G, secretary-treasurer and collector in one suit, for all shortage and uncollected taxes, or

can I issue my warrant and distress them all? B has left the country and G is re-elected. Trustees have taken no security from treasurer or collector.

2. Are the trustees liable for all interest with the exception of the first ten months on all moneys borrowed?

3. Can trustees stop me from going back in the roll for a proper start, when there never has been an audit made?

4. Old school property where school was taught for nearly twenty years, has not been disposed of yet. Secretary-treasurer claims it as his own, and uses it for a blacksmith shop, on the grounds that he never gave a deed for it. What process can I pursue to enforce sale? I am a ratepayer.

5. Are there any laws to apply to trustees assigning policy to D as security besides the notes?

6. Inspector has not visited school in 1900. Is he liable for neglect of duty?

7. Another ratepayer and myself mailed our affidavits to county judge on January 5, 1901, setting forth that collector and secretary-treasurer were withholding books, etc., in compliance with section 108, P. S. A., but we have not heard from him in any way. Would section 110 have good effect?

8. A number of ratepayers who are receiving benefits, by not having to pay taxes, refuse to attend for examination after having been served with a notice, on the grounds that a letter, purporting to have been received from inspector, was read at the annual meeting, setting forth that an auditor had no right to administer oaths to any one or to go back of the year that he was appointed for. Is inspector not abusing his position? What is my remedy against ratepayers refusing to attend, who claim to have paid taxes, which are not credited in cash book?

9. Trustees do not visit school house. Are they liable?

10. Does not section 314, Municipal Act, apply to school auditors?

11. Has an auditor a right to advance witness fees and mileage before he can compel one who is interested in the accounts to attend for examination, or are they compelled to attend without fees?

12. Can an auditor, who is also a ratepayer, collect from the school section, all disbursements such as travelling expenses, affidavits, hire of counsel to prosecute both civil and criminal cases, and what would be a fair remuneration for auditor's time?

13. If trustees were fined for neglect of duty, would they have to resign?

14. Would collector for unorganized school section be liable under section 144, Assessment Act, and what is the penalty?

15. Would assessor in the same section be liable, under section 17, Assessment Act, for not taking a list of children of school age and what is the penalty?

16. Assessor does not put tenants on assessment roll. Is he liable under section 251, Assessment Act, in unorganized township?

17. Is the partner of secretary-treasurer a fit person for the trustees to appoint as auditor, he knowing about a shortage in the accounts?

1. The statutes give you no authority to recover the shortage and uncollected taxes from these parties by action at law. Sub-section 2 of section 23 of the Public

Schools Act lays down the procedure to be followed, that is, the auditors or one of them should issue their or his warrant to any person named therein to enforce the collection of moneys by them awarded to be paid, etc.

2. If this interest can be shown to be school moneys lost to the school section in consequence of the neglect of duty of the trustees, they are personally responsible for the amount under section 114 of the Act. See also section 107.

3. No.

4. If these premises are no longer required for school purposes in their section they should be sold by the trustees for the best price obtainable, and the sum realized should be applied by them to purposes of school section. See sub-section 12 of section 62 of the Act. If the school section was in the use, occupation and possession of these premises for ten years or over (as appears to have been the case) the rights of the former owner (the secretary-treasurer) would be barred by the statute of limitations, whether he gave the school board a deed of the premises or not makes no difference. If the trustees refuse or neglect to discharge their duty to sell these premises they are liable to the penalty named in section 104 of the Act.

5. The trustees had no right to assign this policy to the holder of the notes, as he has no interest of any kind in the school property. The assignment would not be binding on the company issuing the policy, unless it has assented to it in writing, and we do not think it would signify its assent to an assignment of this kind. The assignment should be cancelled, and the policy re-delivered to the trustees at once, as, in case of loss by fire, the company might have grounds for refusing to pay the amount of the policy to any one.

6. No, but he is neglecting the duty imposed on him by sub-section 1 of section 83 of the Act; and on complaint made, and substantiation of the facts, is liable to dismissal, pursuant to sub-section 12 of section 82.

7. Section 110 is the one which applies and not 108.

8. We are of opinion that the Inspector should not interfere in this matter, until and unless it is referred to him under sub-section 2 of section 22 of the Act. If witnesses neglect or refuse to attend before the auditors when required to do so under sub-section 1 of section 23, there appears to be no way of enforcing such attendance, as the Act does not prescribe any means to compel their attendance.

9. Visiting the school-house is not imposed on the trustees as one of their duties under section 62 of the Act, but we think it would be necessary and advisable that they visit the school premises from time to time, in order to enable them to properly discharge the duties required of them.

10. No.

11. The Act makes no provision for