

No, but for the protection of the interests of the municipality the council should either cover the water-course or erect a sufficient railing between it and the road. In its present condition, if an accident occurred by reason of the dangerous opening, the council would most likely be held responsible in damages.

Council's Power to Borrow Money for School Purposes.

317—H. E.—Your opinion in last month's WORLD is that municipal councils should not borrow money to pay teachers' salaries this year on the trustees order.

At the request of the Superintendent of Schools for our county the Deputy Minister of Education has written me to say that it is obligatory on township councils to pay these orders. Kindly say if your opinion is well taken.

COPY OF LETTER.

Dear Sir,—

I am directed by the Minister of Education to state that the amendment to The Schools Act, passed last session of the Legislature, made it obligatory on the township council to pay to the school boards from time to time such moneys as are required to pay teachers' salaries, even before the taxes are collected.

Your obedient servant,

Signed, A. H. W. COLQUHOUN

Deputy Minister of Education.

With all due deference to the opinion of the Deputy Minister, we cannot do otherwise than adhere to the opinion we have already expressed on this question and which is several times reiterated in this issue. Municipal councils are the creatures of the statutes, and they have no power to do anything that these statutes do not authorize. The statutes do NOT empower municipal councils to pay moneys required by school trustees for paying teachers' salaries or the other expenses of the management of schools out of the general funds of the municipality, or to borrow money for the purpose. It therefore follows that, if there are no school moneys standing to the credit of the trustees who apply to the council for payment, in the books of the treasurer, the council is not bound to, and should not, direct payment of the amount of the requisition.

Place For Holding Municipal Elections.

318—A. D. H.—The township council of D has been holding the municipal election in an adjoining town. Sections 104 and 105 R. S. O., 1897, forbids it.

1. Does section 534 of The Municipal Act give them permission?

2. If passing a by-law makes it legal if the by-law specifies a certain building or hall, can it legally be held in any other building without changing the by-law?

3. If the above election has been illegal what effect would it have on the local option by-law just passed?

1. It is not stated whether the town in which the building used by the township as a public hall is located, is wholly or partly within the original boundaries of the township. If it is, clause (a) of sub-section 3 of section 534 of The Consolidated Municipal Act, 1903, authorizes the township municipality to hold its election meetings therein. If the town is not so located, it has no such power.

2. If the circumstances of this case are not such as to bring it within the purview of clause (a) of sub-section 3 of section 534 of the Act, the passing of a by-law by the council will not remedy matters. If the circumstances are such as to enable the council to hold its meetings in a hall in the town, it should not change the place of meeting without passing an amending by-law for the purpose.

3. If the circumstances are such as to disentitle the council to hold its meetings in a hall in the town, we do not think the fact that the last election meeting was held in a hall in the town would be a ground for invalidating either the municipal election or the voting on the by-law.

Liability for School Debenture Payments.

319—D. A. McN.—Last year a number of lots were taken from one school section and placed in an adjoining section. In the section to which they have been attached there are several debentures which were issued for building a new school house, yet to pay. Now in levying for the payment of said debentures should I exempt those lots or not?

Sub-section 1 of section 74 of The Public Schools Act, 1901, provides that debentures issued to raise money for building a new school house shall be repayable out of the taxable property of the school section concerned in such annual amount as they may deem expedient. No provision is made for the exemption of lands taken into the section after the debentures are issued from their proportionate part of the rate necessary to meet the payment of these debentures. We are therefore of opinion that this rate should be levied against these lands, as well as the lands in the section at the time the debentures were issued.

Provisions for Raising Money for Building Town and Fire Hall.

320—W. D.—This municipality wishes to purchase a site for building for fire and general hall for town. Will it be necessary to take a vote of the people or how much money could be expended, it being impossible to wipe the debt off this year as it would amount to about \$1,000?

Since this money is not required for the ordinary current expenditure of the municipality, and is not to be repaid within the year in which it has been borrowed, the by-law providing for the raising of the necessary funds will have to be submitted to the electors of the municipality, before its final passing, as provided in sections 338 and following sections of The Consolidated Municipal Act, 1903. (See also section 389 of the Act.)

Business Assessment of Miller—Proceedings to Fill Vacancy on Council Board.

321—F. G. J.—1. All the lands of a miller are assessed including that covered by water.

In reckoning the business tax, should one reckon 60 per cent. of mill and land occupied by it, say one-quarter acre, or should one reckon 60 per cent. of mill and land covered by the pond, say eighty acres.

2. In case a councillor of a township resigns, what steps are necessary to fill the vacancy. I understand that in urban municipalities the one who is the defeated candidate and has received the highest number of votes of those defeated takes the position. Is this the case in rural municipalities?

1. The business assessment should be calculated on the assessed value of all the land used and occupied for the purpose of carrying on his business as a miller, and as to what the actual value of the land is, so used and occupied, the assessor and Court of Revision on appeal (if any) would be the best judges.

2. The steps to be taken in the event of the resignation of a township councillor before the 1st November in any year will be found in section 212 of The Consolidated Municipal Act, 1903. If the resignation does not take place until after the 1st November, under the authority of sub-section 3 of section 216 of the Act "it shall be in the discretion of the council to direct that an election be held to fill such vacancy, or otherwise as they may see fit." Section 215a of the Act applies only to cities.

Assessment of Income of Private Banker.

322—R. McM.—Can I assess a private banker for income provided he has such in excess of \$700 exemption, plus his business assessment? The banker receives large sums from sources not strictly banking, such as interest arising from moneys invested in mortgages, etc. The banker claims his business assessment covers all.

We are of the opinion that the banker referred to comes within clause (c) of sub-section 1 of section 10 of The Assessment Act, and that he is not assessable in respect of income in addition to this business assessment. See also section 11.