

## School Audit.

134.—C. A.—1. Has the municipal council of an incorporated village the right to demand the school audit to be submitted to them and to be printed along with the municipal audit? This is a union school section, part of it is in the adjoining township.

2. The act requires the municipal auditors to audit the school accounts. As the township contributes a portion of the school monies, which auditors shall audit the accounts?

1. Yes. See sub-sections 11 & 12, section 107, Pub. Schools Act.

2. In the case of township board and high schools the municipal auditors audit the accounts. See Sub-sec. 2, section 59, Public Schools Act, 1891. Sub-section 2 of section 36 High Schools Act. In other cases the accounts are audited by school auditors. See sections 37, 38 & 39 of Act of 1891.

## School Trustee Meetings.

135.—G. G.—Is it legal for two of the trustees of a school section to call a meeting to do business of importance without notifying the other trustees? The meeting is just of the trustees.

Sections 35 and 36 of the Public Schools Act read as follows:

35. Notice of all meetings shall be given by the secretary-treasurer to each of the trustees, or by any one of the trustees to the others, by notifying them personally or in writing, or by sending a written notice to their residences.

36. No act or proceeding of a rural school corporation which is not adopted at a regular or special meeting, at which at least two trustees are present, shall be valid or binding on any person affected thereby, unless notice of such meeting has been given as required by this act, and unless a minute of such act or proceeding is made in writing and signed by two of the trustees.

## Clerk or Treasurer.

136.—TOWNSHIP CLERK.—1. In last issue of MUNICIPAL WORLD W. J. K. is given to understand that one person "cannot properly hold the dual position of clerk and treasurer of a municipality," and reference is made to section 271, Consolidated Municipal Act. It is not the universal practice, but in a great many instances those positions are held dually, and with all due respect for the opinions of the editor, the writer cannot see how the holding of those two positions under one coat is incompatible with the section of the Municipal Act referred to.

2. In the same issue T. U. is told that "a municipal by-law making it lawful for certain cattle to run at large in the municipality is a legal enactment." Kindly give the section conferring the authority. The writer has held the same views, but he has heard prominent legal minds express grave doubts as to whether the authority existed, although the word "regulate" would appear to cover the ground.

1. The question as to whether the same person can legally hold the offices of both clerk and treasurer of a municipality is one that we have given every consideration, and have answered many times in the negative. We think there is no doubt that under section 271 separate declarations are required for the two offices. That a clerk taking the declaration of office as

such has a contract with his municipality, and in order to qualify for the office of treasurer, he would have to subscribe to a declaration which reads as follows:—"That I have not by myself or partner either directly or indirectly any interest in any contract with or on behalf of the said corporation, save and except that arising out of my office or position as treasurer."

Other papers have answered the question differently. *The Mail and Empire* as follows: "We see no reason why a person appointed to fill both the office of township clerk and township treasurer could not make the declaration provided by section 271 of the Municipal Act. This declaration would not of itself prevent the same person from accepting both offices. And although it might be inexpedient or unsafe to appoint the same person to both offices yet we see nothing in the act to prevent it."

The *London Free Press* as follows: "There is nothing in section 271 which would debar the same person from being clerk and treasurer of a township."

The declaration reads that "I, A. B., solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (inserting the name of the office), to which I have been (or appointed) in this township (or as the case may be), and that I have not received, and will not receive, any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office, and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of said corporation (when declaration is made by clerk, treasurer, assessor, collector, engineer, clerk of works or street overseer, the words following:) Save and except that arising out of my office or position as clerk, as the case may be." Now, there is nothing in this declaration to prevent the same person from holding the position of clerk and treasurer. Only that the clerk would have to take a separate declaration for clerk and also for treasurer."

Where lawyers differ, the judges decide. There has been no decision directly on this point that we are aware of, and while we believe that in many municipalities it is more convenient to have both offices held by the same person, we have no alternative but to give our interpretation of the law as we find it.

2. Section 490, sub section 2, Consolidated Municipal Act, 1892.

## Ditches and Watercourses Act—Seven-Lot Limit.

137.—A. N.—Section 5, of the Ditches and Watercourses Act says that every ditch to be constructed under this act shall be continued to a sufficient outlet, but shall not pass through or into more than seven original township lots, without a resolution of council authorizing the further extension, etc.

1. Is this the actual limit of work to be undertaken under this act without a resolution of council, or is it the limit of work to be undertaken at one time under one requisition,

or is it possible to continue the ditch further back at a future time under a new requisition?

2. Does the seven lot limit apply to the deepening and widening of a ditch which has been constructed under this act or any act for which this act has been substituted. Can construction be construed to mean deepening and widening, or is it original opening only as set forth in definitions section 3, of Ditches and Watercourses Act?

A ditch under this act cannot be constructed through more than seven lots without the petition and resolution provided by section 5.

2. The seven lot limit applies to the deepening and widening of a ditch which existed at the time of the passing of the act of 1895. See section 33. Construction means the original opening or making as defined by section 3.

## Sewers—River Pollution—Prevention.

138.—T. C. D.—The town of Galt lies in the municipality of North Dumfries, and through the said town of Galt the Grand River runs, continuing on through the municipality of the said township of North Dumfries.

Now the town of Galt proposes to make a sewer drain through the said town, and empty or run the same into the Grand River, (understand they can do so inside the corporation limits).

Now the people in the township are very much opposed to the river being polluted by such sewage, especially those living on the banks of the same.

1. Can the council of North Dumfries stop the Galt council from digging such drain in the Galt corporation?

2. If it can be stopped, what course will we have to pursue?

1. No.

2. Those persons who own lands which extend to the river, are entitled to have the water flow without it being polluted, unless there is some statute which authorizes the act which causes the pollution. The town of Galt has the right to construct sewers, and if the proper formalities are observed it cannot be restrained from constructing necessary sewers, and the injured party must seek compensation under the arbitration clauses of the Municipal Act. We do not see how the Dumfries council can prevent Galt from constructing the sewer.

The Public Health Act, 1895, provides that the Provincial Board of health is required to report upon proposed sewers, and to ascertain whether they are likely to prove prejudicial to the health of the inhabitants or the municipality constructing the same, or of any other municipality liable to be affected thereby. Write to Dr. Bryce, Secretary Parliament Buildings, Toronto, stating objections.

## Lien on Indigent's Property.

139.—M. E.—What course can the council of a municipality adopt in order to acquire a lien on real estate owned and occupied by an indigent person, who desires assistance from the council in order to keep her family of small children with her?

Take a mortgage or deed. See 56 Vic., chapter 35, section 13.

## Qualification—Insolvent Company.

140.—D. R.—1. If a man take a seat in council and qualifies on mill stock and that