

a public school supporter of the section for which such person is a ratepayer, and every person qualified to vote as a farmer's son under the Municipal Act, shall be entitled to vote at any election for public school trustee, or on any school question whatsoever."

2. Yes, if a public school supporter in the section.

3. Yes, if a public school supporter in the section.

4. No. See sub-section 9 of section 15 of the Act.

Power to Fence in Alley in Village.

20—T. P. D.—On Main Street of this village there has been an alley way open for more than forty years, where ingress and egress has been carried on for that length of time, if not longer. The stores on each side of the alley way have enjoyed the privilege of taking in their goods and other necessary things for the above length of time. The present owner now puts a close board fence across the alley way and says that he has the right to do so.

1. Can he close the said alley way from the public?

2. And if not, what steps can be taken to remove the fence across the alley way?

1 and 2. Assuming that nothing has ever been done by way of statute labor or the expenditure of public money upon the alley in question, we do not see how the public can be interested in it, but every person owning land abutting upon it may have acquired an easement over it by user for a period of over 20 years, and any person who has had such user can compel the removal of the fence. The Council, however, representing the public at large, cannot interfere with it.

Town Council May Appoint Auditor to Audit Accounts Monthly.

21—J. M. H.—Is it legal for a town council in appointing auditors to authorize them to make a monthly audit of the treasurer's books instead of doing so at the close of the financial year?

Yes. See sections 9 and 10 of the Municipal Amendment Act of 1898, being chapter 23 of the Statutes for that year.

Power of Police Trustees to Take Gravel From Highway.—Law as to Traction Engines.

22—J. A. S.—Our village G. is a police village. The police trustees opened a gravel pit in the village on one of the back streets. The ratepayer owns the land on both sides of the street. Now the police trustees have received a letter from a lawyer asking for damages. Is the municipal council responsible or the trustees? What is the law on opening a pit as to damages or can they be collected?

2. We have had trouble with traction engines. One man has a drilling outfit. It is a regular train, first the engine, then driller, then his wagon with pipes and tools. He broke through culvert which was plenty strong enough to hold any ordinary load drawn by team. Now is the council responsible for all repair?

1. If the excavation upon the street has caused damage to the lands of the adjoining landowner, the Trustees, who authorized the excavation, are responsible for such damages. Power is conferred upon the Council of a municipality to remove

gravel or stone from a public highway, and if the Council authorized the taking of gravel from the street the landowner would not have a right of action for damages, if he sustained any, unless he could prove negligence, but would have to arbitrate the question under the provisions of the Municipal Act.

2. We do not think that the engine in question is a traction engine within the meaning of chapter 242, R. S. O. 1897, but the owner of the engine must prove negligence against the municipality in order to recover damages.

Mode of Ascertaining Amount of County Council Grant for High School Maintenance.

23—CLERK.—Suppose that in a certain high school, the cost of maintenance is shown to be \$3,000, Legislative grant, \$650, total number of pupils 105, total county pupils 50, no fees, how much should the county council raise to comply with the law? Give your method of working it out.

The following statement for Aylmer Collegiate Institute for 1902 will give you the information required.

AYLMER HIGH SCHOOL STATEMENT, 1902.

	Average Total Attendance.	Average County Pupils.
1899	93	39
1900	89	42
1901	89	46
	271	127
Average	9.03	42.3
		—4684%
	Cost Maintenance.	Government Grant.
1899	\$ 4,334 96	\$ 868 96
1900	4,426 58	948 31
1901	4,497 09	881 90
	\$ 13,258 63	\$ 2,699 17
Average,	4,419 54	899 72
	899 72	
	\$ 3,519 82	$\times 4684\% = \$1,648 38$

In addition to government grant, examination fees received are deducted from cost of maintenance.

Payment of Account for Fuel for Town Hall Used at Referendum Vote.—Of Accounts for Medical Attendance on, and Fumigation of House of, Small-Pox Patient.

24—X.—The following accounts were presented at last meeting of council:

a. A bill for fuel used in town hall on polling day of referendum vote.

b. A bill for medical attendance (one visit) on small-pox patient. This medical doctor was the regular doctor attending the said patient and was asked by a member of the council whether quarantine could be raised. He therefore made a visit and presents bill for same.

c. A bill for fumigating home of said patient done at the request of a member of council. As the party quarantined is well able to pay all expenses, I hold that section 93, chapter 245 R. S. O. justified council in refusing payment in the case of b and c and that there is nothing in the statutes justifying payment of the first account. Am I right?

(a) The Council of the municipality is liable for and should pay this account. (See section 92 of the Liquor Act, chapter 33 of the Ontario Statutes, 1902, and item 11 of schedule B, appended to said Act.)

(b) If the person afflicted, or his parents or other person or persons liable for his support, are able to pay this account, they should do so, and the Council is in no way responsible, and should not pay it. (See section 93 of the Public Health Act, R. S. O., 1897, chapter 248.)

(c) For the same reason as that given in our answer to question (b), the Council is not responsible for and should not pay this account. (See sections 81, 82 and 83 of the Public Health Act.)

Auditing of Municipal Accounts by Committee of Council and Payment of Members of Committee.

25.—J. S. F.—Would you kindly look up question No. 403 in September number by W. M., then look at question No. 488 by S. W. As I am aware that both these questions refer to one and the same matter I would respectfully inform you that question 488 by S. W. is not correctly stated. Question 403 is correct as far as the action of our council is concerned. Your answer to question 403 is not plain to some. You quote section 307 of the Municipal Act. Instead of the council as a whole (five members) "finally auditing" and "allowing accounts," we appoint two members of our council to check over the auditor's work and report to the county. Now I hold these two can do the work better than the whole board and especially when we have members who can neither read nor write. What would be the use of "submitting" accounts to them? And when the council approves of the work, as done by two members, is it not the council who have done it? Would it not be silly and expensive for a council to sit in session re-auditing auditors' report until each individual member had satisfied himself by examination of accounts that they were correct or otherwise? In question 488, the statement "The council did not accept the auditors' report but made order and paid the auditors" is not a correct report. The council did accept statement of auditors, and then appointed two of their number to examine the accounts according to section 307. Was the council right or wrong? or should their whole number be a board of audit?

If the Council appoints one or more of their number as a committee to examine the auditor's report, and adopt or reject the report of such committee, this would, in effect, amount to an option or rejection of the auditor's report by the Council, and would be a substantial compliance with the provisions of section 307 of the Municipal Act. The Council, however, may pay the members of this committee remuneration for the services thus performed if they have passed the By-Law required by section 538 of Municipal Act. See also section 326 which gives council power to make regulations governing the proceedings of the council, etc., without this our former answers based wholly on the statute law are correct.

Resolution Providing for Collection of Additional Percentage on Unpaid Taxes.

26 J. A. S.—On the collector's schedule or receipt is "all taxes must be paid by the 14th. of December in each year or an additional charge