

Yes, but the amount must be apportioned among all the high schools of the county in proportion to the liability of the county to each high school. See section 35, High School Act, 1896.

Drainage Outlets.

410.—COUNCILLOR.—Our Council is in dispute. If I want to put in tile in my field and it has to cross the road has the Council got to give me an outlet for my tile, and has my neighbor got to give an outlet from the road or have I got to go across the road and across my neighbors farm at my own expense?

The council is not obliged to put in outlets for tile. Your remedy is under Ditches and Watercourses Act. You have no right to go upon your neighbor's land without his consent.

Collector's Seizure.

411.—P. S.—Can a collector go out of his own municipality, but in same county, and make a seizure for taxes on a non-resident residing out of the municipality, for instance?

A is assessed on resident roll for land, but does not live on it. Collector cannot find anything on the land to levy a distress on but goes out of his own municipality in same county, to where A is living, and makes a seizure on his chattels for those taxes against the land assessed. Is it legal?

Assuming that A is properly on the resident roll, the seizure is legal. See section 124, Consolidated Assessment Act.

Resignation of Councillor—Vacancy—Election

412.—H. E. H.—A member of council (2nd Deputy-reeve) tenders his resignation. Resignation is laid before the Council at next meeting but no action taken. The Council does not meet again for some time and ignores the resignation a second time. Meantime three months and over have elapsed during which time the Second Deputy-reeve has absented himself from the sittings of the Council?

1. Must the Council accept this resignation?
2. Must another election be held before the usual time if the place is not filled by acclamation?

3. Are the remaining members of the Council liable for neglecting the matter?

1. No. See sec. 179, Consolidated Municipal Act, 1892, which enables a member to resign with the consent of the majority of the members present.

2. Section 177, Consolidated Municipal Act, 1892, makes the seat of this member vacant, and requires the council to declare the seat vacant and to order a new election. If there is no important business to transact it would probably be in the interests of the municipality not to hold an election unless some ratepayer demands an election to be held.

3. An application may be made to the courts, if the council refuse to order a new election, for a mandamus, but we do not think the members of the council are personally liable to a penalty.

Deputy-Reeves to be Elected in 1898.

413.—F. H.—Will deputy reeves be elected at the next municipal election as formerly, in townships not divided into wards?

Yes.

Five Months' School—Grants—Councillor Employed by Commissioner.

414.—C. S. D.—1. (a) Can a school opened after summer holidays in a new school section claim a grant from municipality, said school only running five months at time of levy? (b) Is it legal to levy over whole of municipality for said school grant? (c) When does school year expire, so that said school would be entitled to municipal grant?

2. In a township where the statute labor of the village is collected as ordinary taxes and money expended by road commissioner, is it legal for a councillor to engage himself and team with road commissioner the same as any other ratepayer or resident, and draw pay from municipal treasury?

1. (a) No. (b) The answer to (a) disposes of this. We may say, however, that if the school has been kept open long enough to entitle it to the grant the amount of the grant would have to be levied upon the taxable property of the public school supporters of the whole township. (c) The school year begins in rural municipalities on the third Monday in August and ends on the 30th of June. See section 89, Public Schools Act.

2. We do not think so. The municipality may pay any member of the corporation for acting as a commissioner, superintendent or overseer over any road or work undertaken and carried on in part or in whole at the expense of the municipality. See sub-section 2 of section 479, Consolidated Municipal Act, 1892. But this section does not include a councillor not an overseer, but employed by the overseer. Section 431 of the act declares that contracts by members with the corporation shall be held void in any action therein against the corporation.

Pounds and Road Fences—Fine—Voters' List.

415.—H. M.—1. Your answer to question 388 appears to be that where there is a By-Law settling the height, etc., of a lawful fence, and cattle to run at large, land owners must erect fences along the road side. Our council supposed that such a by-law only related to line fences and that land owners were not obliged to fence along the road. Will you please give the place in statute compelling land owners to fence along road?

2. Last fall one of our councillors was fined by a Police Magistrate for acting as a member of the Board of Health being a councillor. He paid the fine; should the municipality get the amount of fine or who?

3. Would it be legal to have a column in Voters' List giving the amount of assessment of the real property?

1. Question was answered with reference to the Pound Act only. Section 2 of that act empowers the council to pass a by-law permitting certain animals to run at large. When there is such a by-law the animals are lawfully on the highway, and if there is a by-law regulating what shall be a lawful fence within the municipality, and such cattle escape into lands adjoining the highway over a fence which is not a lawful fence according to the requirements of the by-law, the owner is not liable for damage under the act. If, on the other hand, animals are not permitted to run at large the owner is liable without regard to whether the fence is of the height required by the by-laws or not.

See also sub-section 17 of section 489, Consolidated Municipal Act, under the heading "Fences," and sub-sections 18 and 19, under the heading "Line Fences."

2. The fine is payable to the treasurer of the municipality for the use of the local board of health and subject to its disposition.

3. Nothing more than the law requires should be printed in the Voters' List.

Editor May be Clerk—Reeve and Deputies as Formerly.

416.—J. L. S.—1. Can a man run a newspaper and be also clerk of a village council, and do it legally? The objection is that he can use his newspaper as a great influence for himself and friends at municipal elections and against his enemies.

2. Will you kindly inform me if at the next municipal election there will be any deputy-reeves or will there just be the reeve and four councillors?

1. Yes.

2. The offices are to be filled in the same manner as formerly; that is by electing a reeve and such number of deputies as the municipality is entitled to. See sections 70 and 71, Consolidated Municipal Act, 1892.

School Accommodation—Inspector—Grants Withheld.

417.—TRUSTEE.—In our section we have a good brick school built and paid for. The ratepayers of the section are satisfied to let it remain as it is. The inspector claims that there is not accommodation for the number of pupils attending said school, and withholds government grants till we comply with his request. Can he do so? If not, what steps should be taken to have the same forwarded, or if he can withhold the grants when we comply with his request, can we have all grants forwarded that are held back?

When the trustees fail to comply with the School Act or the regulations of the Education Department it is the duty of the Inspector to withhold his order for the amount of the legislative or municipal grant, and it is his duty in such case to report to the trustees and to the Education Department his reasons for so doing. See sub-section 3 of section 83, Public Schools Act, 1896. It is the duty of the trustees to provide adequate accommodation for all the children of the supporters of public schools between the ages of 5 and 16 years, resident in the municipality. Sub-section 3 of section 62. If it is true that the trustees have not provided adequate accommodation the inspector is within his right in withholding the grant. As soon as the accommodation is furnished the reason for withholding the grants will be gone and they should then be paid.

Incorporation of Village—Effect on School Section.

418.—T. S.—S is now an incorporated town, but previous to 1893 belonged to a township. When incorporated no agreement was made re school sections, and no union school section was formed. Can School Board demand from township money to be levied on residents in township within two miles from school in town, and in township limits to support said school?

Section 49 of the Public School Act, 1896, says: "In case a portion of the