competent for the same individual to be elected to serve on both boards, there is no provision in the statute giving a municipality power to unite both boards in one body as this by-law purposes to do. The caption of the by-law is also misleading, in its indicating and intention to provide for the election of light and heat commissioners only, while clause three of the by-law goes further and is apparently intended to merge the two boards into one; while clause four would seem to continue the powers of the Waterworks Commissioners until the next annual election, viz., until 1901.

(*b*) It also appears that there was absolutely no nomination of waterworks commissioners on the last *regular* annual nomination day. The mayor is by statute *ex-officio* one member of the Board of Waterworks Commissioners, the other members are to be elected at the same time and in the same manner as the mayor. There must, therefore, be a nomination in the usual way.

(*c*) The provisions of the act for filling vacancies occuring in a municipal council, which presumably would also apply to vacancies in the Waterworks Commissioners Board, do not seem to extend to a case of an utter failure to nominate any persons at the regular time and place, but only to resignations, withdrawals, death, etc. and the conclusion would seem to force the belief that it is not found competent to hold another election for water commissioners.

(*d*) And as to the question whether the former Board of Commissioners still hold office? There is an expressed provision in the act by which municipal councillors continue to hold office until their successors are appointed, but none whatever as to waterworks commissioners, therefore the sequence is forced again that there is at present no Board of Waterworks Commissioners legally in existence. Under these circumstances, the conclusion is reached, that it is quite competent for the municipal council to manage their system of waterworks, just as they would do as if no Board of Commissioners had ever been appointed. It follows also that since there is no existing Board of Waterworks Commissioners, the by-law above referred to, purporting to confer upon such board the function of light and heat commissioners is a nullity, with the obvious result that the council should at once assume the management of its light and heat plant, as well as its waterworks.

1. Do the Waterworks Commissioners of 1899 hold over and hold office by continuity through January, February and up to March 5th, inclusive, 1900? And holding over, were their acts, acting in such capacity, legal or illegal?

2. After an utter failure to nominate any person and elect Waterworks Commissioners at the regular time and place for the year 1900, is it competent thereafter in the same year to hold another election for Waterworks Commissioner? And if declared elected on March 5th, 1900, and they act and continue to act in the capacity of Waterworks Commissioners, are their acting in such capacity legal or illegal?

3. Is there authority in our statutes to amalgamate the Waterworks Commissioners and the Heat and Light Commissioners and such amalgamation shall be known as the Waterworks and Electric Light Commissioners? And if Waterworks Commissioners being duly elected for the balance of the year 1900, viz., since March the 5th, 1900, do act in the capacity of Waterworks and Electric Light Commissioners, are their acts acting in such capacity legal or illegal?

4. And will you kindly render and publish your conclusions as to all the objections raised in clause twelve of this communication?

5. If answer to question 1 be that it is illegal, what remedy is open to the electors to correct the irregularty, and what procedure in law is necessary?

6. If answer to query 2 be, that it is illegal, what remedy is open to correct this irregularity?

7. If answer to question 3 be, that it is illegal, what is the proper procedure to put an estoppel to the irregularity?

1. After the best consideration which we have been able to give the first question asked, we are of the opinion that the acts of the water commissioners for 1899, during the present year up to March 5th last, are binding Section 95 of the Municipal Act provides that the members of the council shall hold office until their successors are elected or sworn into office, and the new council is organized. Section 331 provides that all officers appointed by the council shall hold office until removed by the council, etc. Section 327 provides that a municipal council shall be deemed and considered as always continuing and existing, etc Sub section (2) of section 40 of the "Municipal Waterworks Act" provides: "upon the election of commissioners, all the powers, rights, authorities or immunities which, under this act, might have been exercised or enjoyed by the council and the officers of the corporation, may be exercised by the commissioners and the officers appointed by the commissioners and the council thenceforth during the continuance of the board of commissioners shall have no authority in respect of such works." Section 54 of the same act provides: "This act shall be read and construed as part of the Municipal Act." These sections afford, we think, a sufficient reason for holding that the acts of the commissioners in this case were valid. Mr. Dillon, in his work on Municipal Corporations, dealing with the question of holding over after the end of the term for which a mayor or alderman has been elected, says, "to guard against lapses, sometimes unavoidable, the provision is almost always made in terms that the officer shall *hold until his successor* is elected and qualified. But even without such a provision, the American courts have not adopted the strict rule of the English corporations which disables the mayor or chief officer from holding beyond the charter or election day, but rather the analogy of the other corporate officers who hold over until their successors are elected, unless the legislative intent to the contrary be manifested. Thus, in Vermont it is held, there being no statute to the contrary, and such having been the practice, that the school officers elected at the annual meeting hold over until others are elected at another annual meeting, whether more or less than a year from the time of their election.

2. Yes. We regard the provision for holding the elections at a particular time as directory, and if an election is not held on the day fixed by statute it may be held on a subsequent day. It follows, therfore, that the acts of the commissioners are valid.

3. As we understand what was done, there are two boards of commissioners, namely, the Board of Commissioners under the Municipal Heat and Light Act, elected in January, 1900, and the Board of Water Commissioners, elected on the 5th of March last. The business under the two acts should, under the circumstances, be transacted separately. We think that the electors might have elected three persons to act as Water Commissioners, Heat and Light Commissioners, but we do not think that after separate boards have been elected, a by-law can be passed with the assent of the electors amalgamating the two boards.

4, 5, 6 and 7. What we have said in answer to questions 1, 2 and 3, makes it unnecessary to reply to these questions.

Advertising Passing of School Debenture By-law.

230.—A. O.—Is it necessary to advertise that the council has passed a by-law to borrow money when done for school sections, a meeting of rate-payers having been held and a motion passed at the meeting instructing the trustees to apply to council to raise the amount by debenture? The notice I refer to is Chap. 223, section 397, subsection 2.

Yes, if the debentures are issued for a longer term than one year. The only by-laws excepted from the operation of section 396 are those mentioned in section 398, viz: By laws passed under the provisions of the Municipal Drainage Act, and of the provisions of the Municipal Act relating to local improvements.

Cost of Drainage Appeal.

231.—I. J.—The townships of A and B have a drainage dispute, which is decided by the drainage referee in favor of A. B carries the case to the Court of Appeal, which court sets aside the referee's decision with costs.

1. Must the township of A pay these costs out of its general funds?

2. Or can the township of A levy and collect these from its own ratepayers assessed for the drain about which the dispute arose, in case (*a*) the construction or repair of said drain is abandoned, or (*b*) the construction or repair of the drain in question is carried out by subsequent proceedings?

3 If the ratepayers to the said drain are liable for the costs of the Court of Appeal, by which method is the amount of each ratepayers' liability to be ascertained?

You have not furnished us with sufficient data to enable us to answer these questions. We should have all the facts before us, including the full text of the judgment of the Court of Appeal, and their reasons for the judgment.

Wires Strung Over Street.

232.—A. C. W.—Is there any stated height for wires crossing over the street so as not to interfere with travel? A man with a seed drill in a sleigh with the tongue of the drill in the air caught on an electric light wire that crosses the street. The plant belongs to a private party. Is the village responsible for the breaking of the drill by being thrown out.

No, unless regulated by agreement between the municipality and the owner of the plant, but the wires should be strung across the street at such a height that there would be no danger to traffic passing along the street through coming in contact with them. We are of opinion that the municipality would be responsible for any damages sustained by the owner of the drill in the way you mention, unless the owner of the drill, through his own negligence, contributed to the happening of the accident. The municipality may possibly have a remedy over against the