by the council to make the final audit be disqualified as members of the council?

No.

Status of Person Nominated for Two Offices

42 ESSEX.—A ratepayer in our township has been nominated for reeve and also for councillor and the person nominated was not present at the nomination meeting and not in a position to resign from either. What should be done under the circumstances?

Sub section 2 of section 129 of the Municipal Act provides that "at the nomination meeting or at any time before nine o'clock p. m., on the following day, etc., any person proposed for one or more offices may resign or may elect for which office he is to remain nominated and in default he shall be taken as nominated for the office in respect of which he was first proposed and seconded." It is not necessary that the person nominated should be present at the meeting.

Validity of Nomination Paper-

43—Enquirer —At our nomination meeting the nomination paper of one of the candidates, was signed as seconder by a person not on the voters' list of the municipality. Should this candidate's name be allowed to go on the ballotpaper?

Yes. The clerk or other returning officer is not called upon, nor should he decide as to the legality of any nomination paper filed with him. This is a matter for the consideration and decision of the court before which the validity of this candidate's election should be called in question.

Proceedings on Expropriation of Lands for Roads.

44—P. S.—l. The original road allowances in our municipality are in many places impassable, and we have many miles of forced or exchanged roads, the locating and establishing of which often causes considerable expense and annoyance. We have now a couple of cases on hand. A road which has been surveyed around an impassable hill crosses the corner of W. S.'s lot. W. S. Demanded \$50 for a strip of land 66 feet wide for said road. The Council were not willing to pay more than \$35 for it. Finally arbitration was agreed upon. The Council appointed a disinterested party as arbitrator, but W. S. insisted upon appointing his brother, J. S., who valued the land \$4.00 higher than the owner himself had demanded for it. The Council's arbitrator then proposed a number of capable and disinterested men from which to choose a third arbitrator, but J. S. objected to all, and insisted upon the selection of T. P., a brother-in-law to W. S. and J. S., and a party directly and principally interested in the establishment of the road in question. The Council's arbitrator did not agree to that, and the matter has for the present been dropped. What steps should the Council now take to obtain a legal title to that piece of road at a fair price, and with the least cost?

2. Another established road runs over some very high and steep hills, but is not impassable. A much leveler site can be got by swinging off across parts of two lots belonging to two different owners, who a couple of years ago agreed to give the land free of cost if the Council would grant a sufficient amount to bridge a swamp on on the proposed new site, and allow some statute labor to be applied in building the new piece of road. The Council both made a sufficient grant for bridging the swamp and consented to have the statute labor of two road divisions applied on the new road. The owners

- 3. A p'umbago mine has been opened up and is now worked by a company owning it in ar an unused road allowance. Another party, a rate-payer of this municipality, has made application to lease the mining right on the said adjoining road allowance, and the Council is willing to lease it under certain conditions. What legal steps or preliminaries are necessary to make the transaction a proper and legal one?
- 1. Assuming that the council has passed a by-law for the establishment of the road in this particular place in accordance with the provisions of the Municial Act, (section 637), after the preliminary proceedings prescribed by section 632 have been duly taken, if the council and the person whose lands are exprepriated for the purpose of the road cannot agree upon the amount of compensation to be paid therefor, the matter in dispute be ween them must be determined by arbitration under the Act (see section 437). As to the mode of appointing arbitrators, see section 451 and following sections of the Act. In case the arbitrato's appointed by the parties to the dispute respectively fail to appoint a third arbitrator within seven days from the appointment of the lastly named of the two arbitrators, the judge of the county court of the county shall, on the application of either party to the dispute, nominate a third arbitrator as mentioned in section 454 of the Act.
- 2. We do not see that the council can take any proceedings towards opening and establishing this road through the patented lot other than those authoriz d by the Municipal Act, that is, the passing of a bylaw pursuant to section 637 for the opening and establishing of the road after the preliminary steps set forth in section 632 of the Act have been taken. If the owner of the land and the council cannot agree as to the amount of compensation to be paid and received the matters in di pute will have to be referred to arbitration in the manner mentioned in our reply to question No. 1. The council cannot place any material reliance on the efficacy of the agreement signed by the party, since it is now lost and its contents would be difficult of proof.
- 3. The council of the township is empowered by section 657 of the Muni-

cipal Act to lease the right to take plumbago or any other mineral found upon any tighway therein, by by-law passed in pursuance of the provisions of that section.

Qualification of Public and High School Trustees and Members of Public Library Board— Rights of Aliens.

45-C.—Will you kindly state in the Legal columns of your January number the qualifications for Public School Trustee, High School Trustee and member of Public Library Board? Can aliens hold those offices?

Your municipality being a town, a person to qualify as a PUBLIC school trustee must be a ratepayer not disqualified, who is a British subject and resident in the municipality and of the full age of twentyone years. (See sub-section 2 of section 56 of the Public Schools Act, 1901. Subsection 1 of section 13 of the High Schools Act, 1901, provides that any ratepayer 21 years of age residing in the county or municipality, in which the high school is situated who is not a member or officer of the municipal council of such municipality or county shall be qualified to serve as a high school trustee. "An alien is therefore not disqualified under this Act. Subsection 1 of section 9 of chapter 232 R. S. O. 1897, provides a Public Library Board shall be composed of the mayor of the city or town, etc., three OTHER PERSONS to be appointed by the council, three by the Public School Board, etc., and two by the Separate School Board. No person is apparently disqualified for this appointment, unless he comes under the purview of sub-section 2 of this section, and an alien is therefore eligible.

Time for Filing Resignations by Candidates.

46-G. H. B.—Re nomination for municipal councillor for 1903.

In accordance with by-law passed by the council, the time for holding the nomination meeting was Monday, Dec. 29th, from the hour of 7.30 to 8.30. There was nominated for reeve A, B, C, D and E. At 8.30 the Clerk read the list of nominations. The meeting was then continued (with the Clerk in the chair) to give the different candidates a chance to express their views to the ratepayers. During their nomination speeches, after 8.30 o'clock, A and B verbally withdrew from the contest. On the following day before 9 o'clock p. m., the time for the Clerk to receive resignations in writing, B, D and E tendered their resignations in writing.

Can the Clerk legally accept the verbal resignation of A and C, or will there have to be another nomination for reeve?

Section 8 of the Municipal Amendment Act, 1902, (Chapter 29 of the Ontario statutes, for that year), provides that all nomination papers must be filed with the clerk or other returning officer within or e hour from the opening of the meeting. Therefore this official nomination meeting is at an end at the expiration of one hour from its opening. Section 3 of section 129 of the Municipal Act provides that resignations filed AFTER the nomination meeting shall be in writing signed by the party resigning as set forth in this subsection. Since A and B dd not resign until after the close of the OFFICIAL