the scrutineers. He refers, however, to section 116, of chap. 223, Municipal Act, and selects the income voters' oath, which he took and voted, although only on assessment roll and voters' list as M. F. and T., (not being assessed for income.)

1. Did the D. R. O. do right in letting voter select income oath under the circumstances?

2 Had he the right to vote?

3. Can a village council pass a by-law to keep the corporation clear from any chances of an action for damages by persons who might sustain injuries on account of the slippery condition of cement walks, or in other words, can a by-law be passed that persons who walk on the cement walks do so at their own risk?

1. Yes. In the case of Wilson vs. Manes (280 R., p. 419, affirmed on appeal, 26 A. R., p. 398) the plaintiff's name was properly entered on the last revised assessment roll as a *tenant* of real property of the value entitling him to vote at a municipal election, and was entered on the voters' list; but, after the first revision thereof, he ceased to be a tenant and to occupy the property though he continued to reside in the municipality, and was the *owner* of real property as a freeholder of the value entitling him to vote and was such freeholder at the time of the election. At the election he demanded a ballot and was willing to take the oath for freeholders, but the defendant, the returning officer, refused to furnish him with a ballot or to permit him to vote unless he took the oath required for tenants. It was held that the defendant's duties were merely ministerial, and that an action for a breach thereof was maintainable without any proof of notice or negligence; *that the plaintiff was entitled to vote* at such election; and that the defendant's refusal to allow him to vote constituted a breach of his duty and rendered him liable to the penalty of $400 given by section 168 (now 194) and also to damages at common law. The only difference between the case you mention and the above is that the tenant claimed to vote on income instead of as a freeholder, and the same principle applies.

2. Yes.

3. No. A by-law of this kind would be a mere nullity. See section 606 (2).

Municipality Not Liable

60—P. K.—Gravel fell down on a ratepayer of our township last summer, while performing his statue labor, and broke his arm. Is the municipality liable for damages?

No. Even if the municipality had been liable for this accident in the first instance, the right of the party to institute proceedings would now be barred by statute. Sec. 606 of the Municipal Act requires that a notice of the accident should be served or mailed to the head or clerk of the municipality within thirty days after the happening of the accident and that the action should be brought within three months after the damages have been sustained.

Collector not Bound to Send Receipt.—By-Law Regulating Time for Payment of Taxes.—Councils' Duties in Employment of Engineer.

61—J. E. H.—1. Is a collector bound to return a receipt to parties who send taxes by mail?

2. Can a council pass a by-law, making taxes payable last council meeting, without interest being added, Dec. 14th, 15th and 16th?

3. Can council hire a second engineer on a second drain before the services of the first one are completed? or could the first one be discharged and another brought on to complete the first contract?

4. Can a person hold council responsible for damages on property where an obstruction in a boundary river cuts off part of his property?

1. There is nothing in the statutes that makes it incumbent on the collector to return a receipt to a party paying taxes under these cirumstances, but as a matter of courtesy it is usually done.

2. Yes. See section 60, of the Assessment Act, as enacted by section 4, of the Assessment Amendment Act, 1899.

3. It is hard to understand from your question whether you refer to one drain only, or to two different drains. If the latter, and the drains are being constructed under the Municipal Drainage Act, the council can legally employ one engineer to look after one of the drains, and some other engineer the other. An engineer appointed to do work under the Municipal Drainage Act is in a different position from one appointed under section 4, of the Ditches and Watercourses' Act. The latter is employed by by-law to do ALL the work, under the latter Act, in the municipality, and holds office until dismissed by a by-law of the municipality, of which he has had notice. If you refer to one drain only being constructed under the Municipal Drainage Act, the council may dismiss one engineer before the work is completed, paying him up to the date of his dismissal, and employ another to finish the work.

4. You do not give any particulars as to the nature of the obstruction, but if it is an accumulation of driftwood or fallen timber, the council of the county in which the local municipalities are situated or of the adjoining counties shall remove the obstruction and keep the river free from obstruction of a similar nature in the future. See section 619, of the Municipal Act.

Council Cannot Let Municipal Offices by Tender

62—J.M.—Is it lawful for our council to let, by tender, several minor offices in our village, such as caretaker of the hall, constable, sanitary inspector, truant officer, etc.?

No. Sub-section 2, of section 320, of the Municipal Act, provides that no municipal council shall assume to make ANY appointment to office, or ANY arrangement for the discharge of the duties thereof, by TENDER, or to applicants at the lowest remuneration.

Law as to Application of Tenant's Taxes for Separate School Purposes.

63—SUBSCRIBER.—A is assessed as non-resident tenant. He is a Roman Catholic, and wants property assessed for the support of a separate school. B is assessed as owner, also non-resident, pays taxes and road-work, and wants property assessed for the support of a public school. How should it be assessed? Please quote section of law affecting it.

Section 53 of the Separate Schools Act, (R. S. O., 1897, chapter 294,) provides that, in any case where, under section 24 of the Assessment Act, land is assessed against both the owner and occupant, or owner and tenant, then the occupant or TENANT shall be deemed to be the person primarily liable for the payment of school rates and for *determining whether such rates shall be applied to public or separate school purposes* and no agreement between the owner and *tenant* as to the payment of taxes between themselves shall be allowed to alter or affect this provision otherwise. The latter part of the section applies to the case where the *tenant* agrees to pay taxes but vacates the premises without doing so. Therefore, if the tenant you mention gives the notice required by section 42 of the Act, these lands must be assessed and the school taxes applied for separate purposes.

Collector's Authority to Distrain.

64—A. M.—The tax collector, in the fall of 1900, made distraint on timber belonging to G. H., for taxes on a lot of land belonging to J. N., subsequently J. N paid the taxes and costs, thus setting the timber under seizure free. G. H. has not yet removed the timber off said lot, and the collector is again unable to collect the taxes for 1901 from J. N., who is a non-resident. J. N. was assessed for the lands in both the years 1900 and 1901. Would it be legal to make distraint on the same timber as was seized for the taxes of 1900 and sell it for the taxes of 1901?

Since G. H. is not the person who is actually assessed for the premises, and his name does not appear upon the collector's roll for the year as liable for these taxes, the collector has no legal authority to distrain and sell the timber on the premises belonging to G. H., to realize the amount of taxes. Unless G. H. claims title to the timber by purchase, gift, transfer, or assignment from J. N., the owner of and person assessed for the land If the latter is the case, the goods are seizable. See clause 4, (b) of sub-section 1, of section 135, of the Assessment Act, and that portion of the sub-section following clause (d.)

Error in Treasurer's Report to Bureau of Industries.

65—SUBSCRIBER. Treasurer gave a statement of taxes to be collected for 1901 to Bureau of Industries, say $4,000, that being the certified total in collector's roll by clerk. Now, the collector finds an overcharge in two cases, say fifty cents each, which reduces the first mentioned sum one dollar. Now, should the treasurer accept the full amount, and the collector get an order from the reeve for one dollar, being in error in collector's roll, or should the treasurer make the correction in the roll, so that the error would not be shown in the accounts, and accept $3,999 as the full amount? By adopting the last plan it would show a mistake of one dollar in treasurer's statement to Bureau of Industries.

In this case, the council should either pass a resolution instructing the collector