and are not required to be followed implicitly. The second question must also be answered in the affirmative. It may be treated as really one of fact. It is impossible to say that the lists are not subjoined. They are annexed, or attached. Looking at the lists and reading them in the light of the notice there is no sufficient ambiguity to lead to the rejection of them on the ground that they are not part of the complaint. Question 3 must also be answered in the affirmative in this particular case. In a case of a notice defective in some material respect, e. g., unsigned, which renders it valueless as a foundation for the proceedings, which the Judge is authorized to take upon receipt by the clerk of a notice in conformity to the Act there is no jurisdiction to amend ; but assuming that the notice and lists to be properly before a Judge, a misnomer or plain mistake in description and many other like errors may be amended.

### Rex ex Rel. Roberts v. Ponsford.

Judgment on application by relator to set aside the election of eleven persons as aldermen for the city of St. Thomas at the general election held on the 6th January, 1902, upon the ground that the election was not conducted according to law. On the 6th February, 1900, the city council passed a by-law providing for the election of the council by general vote instead of by wards. The first election pursuant to the statutes and this by-law took place in 1901, when under the Municipal Amendment Act, 62 Vict, chapter 26, section 13, every elector was permitted to vote in each ward in which he had been rated for the necessary property qualification for councillors or aldermen. On the 15th April, 1901, an amendment was made by 1 Edw. VII, chapter 26, section 9, by adding to section 158 of the Municipal Act the following section : "158 a. In towns and cities where the councillors or aldermen are elected by general vote every elector shall be limited to one vote for the mayor and one vote for each councillor or alderman to be elected for the town or city, and shall vote at the polling place of the polling subdivision in which he is a resident, if qualified to vote therein, or when he is a non-resident or is not entitled to vote in the polling subdivision where he resides then where he first votes and there only." . . . . . . . . As to the election now in question, more than 100 witnesses were examined on behalf of the relator in support of this application, the greater number being examined as to the number of times they voted for aldermen. It was shown by these witnesses that there were at least 90 votes polled which should not have been polled, according to the act of 1901. Held, that the evidence wholly failed to support the allegation that these votes were cast by the "deliberate, corrupt and wilful connivance and arrangement of the defendants," but, on the contrary, these votes were cast in the honest belief of the voters that they had the right to cast such votes, and without any instruction from any of the candidates to vote for them more than once. The casting of such ballots was wholly irregular, and they should not have been allowed by the deputy returning officers, if they were aware that the voters had already voted. Rex ex rel. Tolmie v. Campbell, 4 O. L. R. 25 referred to. Even if the 90 votes improperly polled were struck off that would not necessarily interfere with the result of the election, owing to the large majorities of at least ten of the candidates elected over the first unsuccessful candidate. The election of the successful candidates was not affected by the improper votes being counted, and in other respects there was no such irregularity in the carrying out of the election as to affect the result Motion refused with costs.

### Gauthier v. City of Ottawa.

Plaintiff appealed from judgment of county court of Carleton in action for damages for injuries sustained by plaintiff, who when walking on the sidewalk on the north side of Hill street stepped on a plank which was rotten and loose and fell, sustaining injury. The trial judge found that the sidewalk was old and unsafe, but that the defect which was responsible for the accident had not been shown to have existed before the accident occurred, and there was no direct or constructive notice to the defendants of any defect, and assessed the damages at $185 in case his finding should be set aside. Counsel for plaintiff on the appeal referred to McGarr v. Prescott, 1 O. W. R. 53. Appeal allowed with costs and judgment directed to be entered for plaintiff for $185 and costs.

### Stevens v. City of Chatham.

Judgment on appeal by plaintiffs, husband and wife, from judgment of Street, J., at the trial at Chatham dismissing the action, which was brought to recover damages for injuries received by the wife from a fall on a sidewalk in the city owing to the alleged gross negligence of the defendants in permitting the sidewalk to be and continue in a dangerous state and out of repair owing to an accumulation of snow and ice. The wife on the 11th March, 1900, slipped and fell and broke her thigh bone and sustained other injuries. The sidewalk was a granolithic one, a little lower than the boulevards on each side of it. There was a sort of furrow in the middle of the accumulated snow, with icy ridges on each side. The plaintiffs contended that the condition of the sidewalk was distinctly dangerous and that such condition had existed long enough to make it gross negligence on the part of the defendants to suffer it to continue. Held, that there was no evidence of gross negligence, and that the evidence warranted the finding below. Appeal dismissed with costs.

### Whelihan v. Hunter.

Judgment in action tried at Woodstock without a jury. The plaintiff's claim was on behalf of themselves and all ratepayers of the town of St. Mary's against the corporation of the town, and against the members of the Finance and Fire, Water, and Light Committee, of the Council for 1902 as individuals for a declaration that an item of $3,170 in the report of the Finance Committee, which it was alleged was introduced into the estimates for the purpose of building a certain water main, was a valid debt of the corporation which they were bound to provide for during the current year, and for an injunction restraining them from making any payment upon the contract for the water main in question, on the ground that there was no valid or subsisting contract for the work, there having been no by-law authorizing the work till after this action was begun. Held, that in view of sections 402 and 435 of the Municipal Act, R. S. O. ch. 233, it was doubtful if the debt was a valid debt of the corporation, and that this doubt was sufficient reason for dismissing the action since the holders of the note given for the liability in question were not parties. Action dismissed. No order as to costs as between plaintiff and defendant corporation, but plaintiff to pay the costs of the individual defendants except those incurred on the proceedings for the interlocutory injunction.

### Rex vs. Murray.

Judgment of James M. Glenn, K. C., police magistrate for St. Thomas.

This is a case in which an information was laid by the license inspector of West Elgin charging the defendant with having on the 1st day of October, 1902, at the village of Wallacetown, in the west riding of Elgin, sold liquor without a license therefor required by law, and it was heard by me on the 27th of October last. It was admitted by the defendant that he sold at the time and place mentioned a certain beverage called "Hop Tonic" and another beverage called "Tonic Porter," and he also admitted that he did not at the time of such sale have a license for selling liquor in the said west riding of Elgin, and the only question to be determined is whether the beverages in question were, or either of them was, liquor within the meaning of "The Liquor License Act." Mr. A. F. McLachlin, a practical druggist and chemist of St. Thomas, gave evidence on behalf of the crown and swore that he had analyzed the contents of two bottles which the license inspector swore he had purchased from the defendant at the said village of Wallacetown on the first day of October last, one of them being a bottle of so-called "Hop Tonic" and the other "Tonic Porter," and according to McLachlin's evidence the "Hop Tonic" contained between 3 and 4 per cent. of alcohol by volume and between 2 and 3