

### The Duties of a Clerk to His Constituents.

Paper read by W. G. Francis, Clerk, West Oxford, at a meeting of the Oxford Municipal Officers Association, County of Oxford.

The duties of a clerk to his constituents as laid down by the statutes are in a measure somewhat vague. At the same time every turn of the Legislative machine adds additional duties.

If the council was asked to engage a clerk by by-law, to state in that by-law, what were his duties, I doubt very much if the most of councillors could formulate such a one.

My experience has been that councils do not acquaint themselves sufficiently with the duties of the office in order to know what the clerk has to do. That attending the meetings of the council, making out the voter's list, preparing the collector's roll and perhaps a few other little duties, is about all the clerk has to do. My experience and yours has told us that there are a great many things besides what I have mentioned. A clerk in order to be useful to the municipal council for which he works must needs be well up with his work, to keep himself well informed as to all changes or amendments to the statutes so that he may be in a position when required to inform the council who are not supplied with the statute books of any change that has taken place. Further that as clerks often have to prepare by-laws without the aid of legal advice they must be acquainted with the laws in order to be able to do so. I think it is more than councils should expect that a layman should draw up all by-laws without some legal assistance, if he thinks it necessary. The statute grants power to councils to pass by-laws for certain purposes, such as (in townships) for drainage, governing and regulating stock running at large, public morals, height and description of lawful fences, and others too numerous to mention. It usually falls to the lot of the clerk to prepare these by-laws for which the councils do not pay any extra, except what the engineers allow for drainage by-laws, which is generally about what the work of preparing the by-laws is worth, not allowing anything for placing the tax upon the collector's roll for the number of years the debentures have to run or for preparing debentures. I think it the duty of the member who introduces a by-law, to prepare it, or if the duty is delegated to the clerk he should be paid for it. There is one matter about which I think the ratepayers do not use the clerk right. A good many of them think that the clerk is not only clerk of the council, but that he is theirs also, and in case of one ratepayer having a disagreement with his neighbor as to the proper kind of fence between their properties, or the cattle of one trespassing on the property of the other, or getting up of a petition for drainage or other purposes, the rate-

payer in nearly every case at once goes to the clerk to get things in shape that they may proceed legally, about the matter in complaint, oftentimes taking up as much as a half day or more, with the result that the clerk is requested to fill up all necessary forms for them. After such is done the said party sometimes says thank you, not giving the least thought to the fact that he has trespassed upon the time of the clerk for his private purposes. I think it the duty of every clerk after he accepts the position to do his work in a careful and accurate manner, especially in the preparation of the collector's roll, in order that the council may not be put to the trouble of passing resolutions to correct errors made therein. At the same time should such error occur it necessarily gives trouble to the party against whom the error occurs of having the same corrected, also giving the collector more or less annoyance. I have made it a rule to prove every page of the roll by the rate on the total of each, thereby making a recapitulation of the whole and can give up the roll to the collector with the satisfaction of knowing the same to be correct. The voters list is another matter that should receive careful preparation, I do not think there is any thing that will ruffle the temper of a ratepayer more than to go to the poll and find that his name has been omitted from the list, thereby depriving him of his vote. The copying of the assessment roll for the use of the public should not be a duty of the clerk.

A tabulated statement is all that is necessary for the use of the county council, that body only dealing with the totals of the assessment, the only parties benefited by the copy are money lenders and lawyers who wish to obtain the assessed value. I do not object to the work entailed but consider that as the roll is for the use of the public that the county council should make a grant and pay the clerk what it is worth and not the local municipalities.

The local Legislature is continually requesting information from the clerk or treasurer of the municipality to be furnished on forms supplied by the departments. I think it would be a good thing if the Legislature would also require a statement as to the amount of time that he has to give to the duties of his office and the remuneration. Of course I am aware that it is our own fault that we work so cheaply, as we are at liberty to quit when we chose to do so. One thing that keeps the salary of a clerk down is the fact that there are always some ready to take up the work no matter whether they are suitable for it or not, and this has its effect. The same may be said of any office in the gift of the electorate, but why cannot the Legislature protect the municipal clerk as it has the sheriff, registrar and others. There is something in the work that seems to make a man stick to it even when he knows it is not paying him to do so, perhaps it is the fact of his knowing that he keeps the other fellow out.

### After the Election.

#### RECOUNT.

Section 188 requires the clerk to retain for one month all the ballot-papers received by him or furnished to him by deputy-returning officers. Section 189 provides for the inspection of ballot-papers on the order of a court or judge. An application for a recount must be made within fourteen days from the time when the ballot-papers are received by the clerk. Sub-section 2 of section 189. In computing the fourteen days, the day on which the clerk receives the ballots is not counted. Sub-section 4 requires that the applicant shall deposit \$25 with the clerk of the county court, as security for payment of costs.

#### Quo Warranto PROCEEDINGS.

An application for a recount does not destroy or prevent the remedy by *quo warranto* or otherwise. Sub-section 9 of section 186. Proceedings in the nature of *quo warranto* to contest the validity of an election must be commenced within six weeks after an election, or within one month after acceptance of office by the person elected. Section 220 (1) of the Municipal Act. Any candidate at the election, or any elector who gave or tendered his vote, or in case of an election by acclamation, any elector entitled to vote at a municipal election may be the relator to take these proceedings. Section 219 (1). Jurisdiction to try contested elections is conferred upon a judge of the High Court, the Senior or officiating judge of the county court in which the election took place, or the Master in Chambers.

#### DISCLAIMER.

Section 238 enables a person whose election is complained of (unless such election is complained of on the ground of corrupt practices on the part of such person) within one week after service on him of the notice of motion to disclaim his right to the seat. The person disclaiming must be careful that the disclaimer is in the exact form prescribed by section 238 and that it is addressed properly and delivered to the person named in the section, otherwise the disclaimer may be regarded by the court as a nullity.

Section 239 provides that the disclaimer, or the envelope containing the same, shall be endorsed on the outside thereof with the word "disclaimer," and shall be registered at the post-office where it is mailed. Section 240 provides for a disclaimer where there has been a contested election at any time after the election and before the election is complained of. The disclaimer must be in the form provided, signed by the person disclaiming and delivered to the clerk of the municipality. Section 241 declares that such disclaimer shall relieve the party making it from all liability to costs. Care ought to be taken that the disclaimer is in proper form, signed and delivered to the clerk, as the statute provides, because if a person does not disclaim his right to the seat in the manner provided by the Act he cannot claim relief from costs. It will therefore be seen how important it is to comply with the law.