

## CORRESPONDENCE.

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## Tile Drainage Expenses and Clerks' Salaries.

To the Editor of THE MUNICIPAL WORLD:

Dear Sir,—I think your correspondent H. R., in the February number of the WORLD, misunderstood my communication re payment of expenses under the Tile, Stone and Timber Drainage Act. I did not suppose there could be any question as to who ought to pay the expenses until my ignorance was enlightened by the members of the drainage commission, but what I want to come at now, is the legal authority for charging the expenses to the borrowers. My position is just this, I find myself saddled with an amount of extra work under this act, which, according to the figures given in your November number should bring me in a sum nearly equal to half my present salary, but for which, at present, I do not receive one cent, the council being unwilling to pay my fees out of the general funds, and the borrowers refusing to pay out of the sum borrowed until I can show some statutory authority for charging the amount to them. What is a poor unfortunate clerk to do?

By the way Mr. Editor, what became of the discussion as to the legislature fixing the minimum salary for township clerks. I was very much interested in this discussion, and was very sorry my fellow clerks allowed it to drop. By way of opening the question again, let me give you two reasons why the legislature should take the matter in hand: In the first place many members of township councils are from want of education or lack of intelligence, utterly unable to form a correct estimate of the value of a clerk's work. They have about as much idea of the amount of work involved in—say making out the collector's roll for a township when a large amount is raised by special taxes, as King Lobengula has. There are thousands of men trying to carry on business of different kinds under the impression that the simplest form of book-keeping is a luxury they cannot afford to indulge in. A good many representatives of this class get into our councils. What kind of an estimate are they likely to form of the work of the most efficient clerk? Reason number two, is, that intelligent and well-informed members of councils who can form a pretty correct estimate of the value of a clerk's work, very often dare not pay him such a salary as they know he ought to receive. I heard a remark made by one of the latter class of councillors on this subject a short time ago. "Said he," speaking of himself and fellow councillors, "If we gave our clerk and treasurer salaries equal to the value of

their work, not one of us would ever sit in that council again." All of which goes to prove, Mr. Editor, that the legislature is the proper party to fix a township clerk's salary.

Yours truly,

ISAAC JACKSON.

## Drainage Laws.

To the Editor of THE MUNICIPAL WORLD:

Dear Sir,—I have been very much pleased with your criticism of the proposed bill to amend the drainage laws, and only regret that you have not been able to go over all important sections. Your suggestions are plain and practical, and it is to be regretted that this is not the case with the greater part of the bill.

The drainage law is to-day one of the most important in the municipal code. But amendments have been made to it, at, I believe, each session of the legislature to meet, no doubt, some particular case without considering the general effect. To-day it is in such a condition that councillors and citizens can only speculate as to its interpretation, and take chances on its results. But when men were encountered who would fight for justice at any cost, the courts would render decisions, reverse decisions, and again reverse them, until the costs were so enormous, that rather than loose all, they were obliged to send the case over the Atlantic to be decided in Her Majesty's privy council.

The appointment of the commission was looked upon with a great amount of satisfaction by those who expected they would listen to the grievances caused by those whose experience with its operation was expensive. If the proposed bill is the result of their work it is very unsatisfactory.

From the long petitions prepared by the various councils suggesting amendments, together with the dissatisfaction expressed by the ratepayers, it is to be hoped that the legislature will not confirm this bill without entirely rewriting it, and making it simple and practical.

There is no reason why the drainage law should not be made simple and within the comprehension of laymen.

Yours truly, D. M. L.

ED.—Had we space sufficient at our disposal, we would have continued to deal with the bill, but after studying it to some length, we found that it was only a reprint of the present vogue, cumbersome, unjust, and in a large degree impracticable law. In order to do ourselves justice, it would be necessary to re-write the whole bill. In our opinion this will have to be done, before the legislature adopt it. There is no reason why it should not be made simple, and so easily understood, that at least our own courts could interpret it.

## How to Elect the Warden.

To the Editor of THE MUNICIPAL WORLD:

Dear Sir,—Judging from the papers, it would appear that the county councillors of

Elgin had rather a parrot time in the selection of their warden. I wonder if it ever occurred to any of them that the selection of warden by ballot, is an unauthorized method, although I believe it has become general in Ontario.

Possibly, if a question of this kind were to come up for adjudication, before the higher tribunals of justice, on *quo warranto* proceedings, on the ground of acquiescence, an election would not be disturbed, but if any member objected to the ballot and claimed an open vote, it would be held to be illegal without doubt.

The constitutional way of voting on all elections not specially provided for, is the rule, voting by ballot is the exception, and a statutory creation, applicable only to, and limited to special subjects.

How can it be otherwise in the case referred to? There must be a uniformity of system throughout in the choice of the warden—how could the provision (section 227) enabling the reeve from the highest assessed municipality or the reeve of the municipality having the greatest number of municipal voters, having a second or casting vote—to exercise the function of voting? Is he to do so by ballot or open vote? Surely, if the other councillors are to hide their choice under a bushel by a secret ballot, the man who holds the right to give the casting vote is not to be exposed to the dangers and obloquy of an open vote; and ought not to be deprived of the coward's refuge which has been illegally resorted to by all the other members. How, let me ask, is that provision to be carried out, consistent with responsible government?

Another question has been raised as to whether the majority of the quorum (if only a quorum be present) can elect a warden, the doubt being suggested by reason of the awkward wording of section 225 of the Municipal Act.

I set no value in that objection, a quorum in any deliberative body, I take it, is competent to perform any act or function within the limit of their powers. No doubt section 225 is a clumsy way of saying there must be a quorum present to elect a warden; or that a majority of the members of the council, present at any regular meeting shall form a quorum for the despatch of the business, and exercise the powers of the whole body, the same as if all the members were present.

I should like very much to see your opinion given in your valuable and helpful journal.

Yours truly,

SCRIBE.

Toronto, January 1894.

There were two decisions in the English courts on the subject of a secret ballot, in which arose questions as to how the franchises were to be exercised by parishioners in electing a parish parson or curate. In one of these, Faulkener vs. Elger, reported 4 Birnewell and Cresswell 454, the Court of Kings Bench decided that the