pass a by-law first under section 557, and this notice should then be given pursuant to this by-law.

5. Yes. See chap. 37, Ontario statutes 1900.

6. It is not compulsory. Section 1 provides that "the council of any municipality may by by-law passed by an affirmative vote of not less than two-thirds of the whole council, provide that thereafter the use of ballot-boxes and ballot-papers, at municipal elections, MAY be discontinued, and MAY adopt for use at elections any kind of voting machine that complies with the requirements of this Act, etc."

Collection of Arrears of Taxes.—Collector's Default.

297. A. B.—The collector does not make return in duplicate, and clerk does not send out notices in accordance with section 147, and the treasurer does not make return to clerk in accordance with section 152, and as a result no arrears are placed on collector's roll. No tax sale has been held.

Are the arrears of taxes collectable and should they be considered as an asset? If not, who is liable to the municipality?

The duties of the collector and clerk, under section 147 are imperative, and not directory only (see Donovan v. Hogan 15 Appeal Reports, p. 432, and Deveril v. Coe, 11 Ont. Reports, p. 222.) A sale of the lands would now be invalid, and the taxes cannot be collected by seizure and sale in the ordinary way or otherwise. The taxes should not be considered as an asset of the municipality. If these taxes have been lost through the negligence of the collector in the performance of his duties, he can be made pay the amount to the municipality. The collector would also be liable to pay the penalty mentioned in section 249 or 251, of the Act, if he refused or neglected or wilfully omitted to perform his duty.

Recovery of Taxes Voluntarily Paid.

298.—C. S.—A man who had paid taxes for two lots in 1895 and 1896 but was not located for these lots and is not living on them, nor has any improvements on them. At the time he was asssessed for them he did not know, but thought he had to pay the taxes as he was intending to get located for them, but he is not located yet, but now he has engaged a lawyer and he now wrote to me that this man is entitled to these taxes he paid, to be paid back to him.

1. Can this man in question legally compel the council to pay back those taxes he paid?

2. Should the man not have objected to it at the time he was assessed for them?

1. No.

2. Yes.

Council Meetings in Hotel.—Formation of Municipality.—Appointment of Fenceviewers.

299.—G. W.—1. Is it legal for a council to hold council meeting in a licensed hotel? On council meeting day the bar is open. If illegal, what is the penalty?

2. What is the proper method of forming a municipality?

In a certain municipality the following method was adopted.

(a) A public meeting was called and about thirty-five or forty resident land holders signed a requisition, asking the judge to grant their request.

(b) An objection was made, setting forth that one of the townships that formed the municipality had not sufficient population,

(c) Will you plainly state how this difficulty could be overcome by the judge?

Enclose a copy of judge's notice. An open vote was taken and it was declared carried by a majority of thirteen, the chairman voting.

Enclose a copy of nomination.

3. Have fenceviewers to be appointed annually?

1. A council can legally hold its meetings in a licensed hotel.

2. In view of the fact that you are a resident of a municipality composed of a union of townships in a Territorial District, we presume it is the formation of a municipality of this kind you are asking about, and we answer your question on this assumption. Sub-section 2, of section 1, of chap. 225, R. S. O., 1897, provides that "any number of townships adjacent to each other in any of the districts mentioned in the Act, (including the District of Rainy River,) having *in the aggregate* at least, one hundred inhabitants, may organize themselves into a union township municipality, although the population of any one of the said townships may not amount to one hundred persons, provided, however, that the population of such township amounts to not less than fifty." A township having a population less than fifty should not be included in the union municipality. Preliminary to the formation of the municipality, a petition "in which the limits of the proposed municipality are defined," and signed by not less than thirty inhabitants of such locality, should be presented to the Judge of the District, (or stipendiary magistrate, as the case may be) praying for the calling of a public meeting to consider the formation of the union. (See section 2, of the Act.) Section 3 provides for the deposit of a sufficient sum by the petitioners to cover the expenses of the meeting to be called, and the election. In his notice, calling the meeting, the judge or stipendiary magistrate should name some competent person to preside at the meeting, which appears to have been done regularly in your case. If, at this meeting, at least thirty freeholders or leaseholders vote in favor of it, the union municipality can be established. See section 5. You do not say how many voted for the establishment of the union. The time and place for holding the first election should be fixed by the Judge or stipendiary magistrate, and the returning officer should be named in the notice providing for the election. If the public notice you send us was intended to provide for the first election in the union municipality we are of opinion that it was irregular, and should have been given by the judge instead of the returning officer. We suppose, however, you elected a new council in January last, in the regular way, so that any objections to the proceedings in 1899 would be of no consequence now.

3. Not necessarily. See sub-section 1, of section 537, of the Municipal Act.

Local Improvements on the Initiative Method.

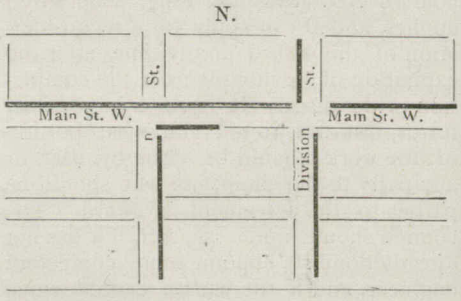
300.—E. S.—Our council contemplate putting in a large amount of silex walks and propose to assess the cost as follows;—40% to be paid out of the general fund and 60% by the owners according to the frontage of the property. They propose to initiate proceedings under section 669 of the Municipal Act. I enclose sketch of the streets and portion thereof to be paved. The following questions arise in the minds of the council with regard to the proposed work.

1. What should the notice required by section 669, subsection 1, contain?

2. Should the by-law be passed; the assessments made, and cost ascertained and these inserted in the notice, or is it only necessary to give a bare notice of intention to do the work, wait the one month and if no petition against, then proceed with the by-law, etc.?

3. The work will include three streets, constructing over a mile of walk. Will a property owner assessed specially, be exempt from the general tax for any of the work, that is, will a property owner on one street be exempt from contributing to the cost of the work on another street? If not, to what extent does the exemption go?

Heavy line shows proposed walk approximately:



A simple statement published in the manner mentioned in this sub-section, announcing the intention of the council to undertake the work under the authority of section 664, of the Municipal Act, specifying its nature, extent and the streets on which it is to be performed, and stating that unless the majority of the owners of the real estate, representing, at least, one-half in value thereof, petition the council against the same within one month after the last publication of the notice of the intention of the council to undertake the said work, such work shall be undertaken, and that the assessment of the cost thereof shall be made upon the properties benefited thereby, and stating that this notice is given pursuant to section 669, of the Municipal Act, will be sufficient. 2. A by-law cannot be passed until after the expiration of the time limited by section 669. See sub-section 4, of section 669, and sub-section (a) of sub-section 4.

3. Sub-section 1, of section 680, of the Act, (as amended by The Municipal Amendment Act, 1900,) provides that real property specially assessed by any council for any local improvement or work under this Act shall be exempted by the council, upon the value of the lands only, and not of the improvements thereon, from any general rate or assessment for the like purpose, except the cost of works at the intersection of streets, and except such portion of the the general rate as may be imposed to meet the cost of like works opposite real property which is exempt from such special assessment. As to the aseessment of corner and irregular lots, see section 673, sub-section 4.