

LEGAL DEPARTMENT.

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Editor.

LEGAL DECISIONS.

In re Goulden and City of Ottawa.

Liquor License Act—By-law Limiting Licenses—When to be Passed, "Year"—R. S. O., chapter 194 Section 20.

A corporation passed a by-law on the 14th May, 1896, limiting the number of tavern licenses.

Held, that by the Interpretation Act, R. S. O., chapter 1, section 8, sub-section 15, the word "year" means a calendar year; that the words "before the first of March in any year" in section 20 of the Liquor License Act, R. S. O., chapter 194, mean in the months of January or February in any year; that it was the intention of the enactment that the incoming council should have the responsibility of the legislation; and the by-law was quashed with costs.

In re Leak and City of Toronto.

Arbitration and Award—Municipal Corporations—Lands Injuriouly Affected—Interest.

Motion by the corporation of the city of Toronto to set aside an award. The arbitrator awarded \$8,782 with interest from 16th March, 1891, to the landowner, William Leak, for the "entering on, taking, and injuriously affecting" certain lands mentioned in the award. Upon the face of the award he did not distinguish between the sums, if any, awarded for "injuriously affecting" and those awarded for lands taken. The question was whether Leak was or was not entitled to the interest awarded to him.

Held, that if the amount awarded was exclusively composed of damages inflicted upon adjoining land by the raising or lowering of the street, the allowance of interest should not have been made, upon the broad ground that, in the absence of express authority, unliquidated damages of this nature do not bear interest. But *aliter* if the amount was awarded for lands taken, as in re Macpherson and City of Toronto, 26 O. R. 558, 15 Occ. N. 221.

An order was made referring the award back to the arbitrator in order to have it made plain whether any part of the amount awarded, and if so what part, was for lands injuriously affected, and in order that arbitrator might, if necessary, alter or modify the award so far as the question of interest is concerned. Costs of this motion reserved until after the further award shall be made. Such costs and the costs of the reference back should be given to the party substantially succeeding upon the question of interest.

Ordinary Current Expenditure.

A town treasurer writes as follows:

F. J. C.'s query in the June number as to the class of expenditure included in the term "ordinary current expenditure" is apropos, and I confess after reading question and answer and giving it some study, to be still perplexed. In the first place I presume, both refer to debentures (principal) maturing, which have to be paid off. I take it, you don't intend to convey, that interest on debentures is not ordinary current expenditure, and yet you express opinion in the words "ordinary expenditure does not include regular payment on account of debentures and coupons." I venture to say very few towns or incorporated villages who call themselves progressive are acting on the assumption that their borrowing power does not include the sum required to pay interest on debentures. It seems to me "ordinary current expenditure" should include all annual expenditure which comes within the purview of the Municipal Act; the total tax levy, in plain words. For example if the mayor of a corporation goes to a bank to negotiate a current loan, until the taxes to be levied can be collected, he will represent, that the estimates call for, say, schools \$6,000, interest and sinking fund on debentures \$6,000, and for general purposes, which is usually called controllable expenditure, \$8,000, making a total tax levy of \$20,000; and having in view the recent amendment, he will present to the manager a copy of by-law passed by council authorizing the borrowing of eighty per cent. of the levy, \$16,000. This is quite plain, practical and business-like, and why not correct, so far as the term current expenditure is concerned. I am not losing sight of the fact, that the amendment does not read eighty per cent. of the levy, but eighty per cent. of the amount collected in the preceding year; but I am convinced that had the borrowing power been based on the levy instead of on the amount collected as the law now is, it would have been much better and more workable, because the amounts collected vary more than the levies in the respective years.

Therefore it seems to me, that between the law as it now reads and your interpretation of what should be classed as ordinary current expenditure, the new amendment, although in the right direction, will result in little practical good. F. S. R.

[Having already expressed our opinion in reference to the amendment, we will be pleased to hear from other clerks.—ED.]

The town of Renfrew recently accepted a very favorable tender for business from the Merchants Bank. Three per cent. interest is allowed on daily balances, all cheques are cashed at par and money required for current expenses may be borrowed at five per cent.

Simcoe County Special Committee re Houses of Refuge.

The special committee of the County Council of Simcoe visited the Houses of Refuge in Waterloo, Perth, Oxford and Lambton and reported that:

"Some of these institutions are, in our opinion, a little more elaborate than to us seems necessary. Some mistakes have been made in their construction which were kindly pointed out to us by those in charge.

In all the institutions, which were visited, the inmates appeared to be comfortable and have good reason to be contented, seeing that their condition in life is much better than they have hitherto been accustomed to.

In all the counties visited we found the municipal and other authorities all well pleased with their Houses and the working of the same. That those who had originally opposed the erection of such houses now express themselves as strongly in favor thereof, and have no desire to go back to the old order of things.

We estimate the cost of a suitable farm at

farm at	\$ 3,000 00
House, including fire escapes and plumbing	15,000 00
Barn, woodsheds, etc.	1,500 00
Beds and bedding	900 00
Stoves, tables, etc.	340 00
Crockery, tinware, etc.	60 00
Farm stock and impliments, including 2 horses, six cows, 2 sows, wagon, plow, harrow, disk harrow, cultivator, seed drill, root cultivator, mower, horse rake, etc., etc.	600 00
Furniture, etc.	200 00
Isolating cottages	1,000 00
Heating apparatus	2,000 00
Plans, etc.	300 00
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	\$24,000 00

—Examiner.

Publications Received.

Proceedings, Financial Statement, etc., County Council of Wellington. In this county the warden is elected by open vote, and at the January session County Solicitor Guthrie advised the council as to the effect of the County Councils Act on this question as follows:

1. I think that the warden should, in pursuance of our by-law, be elected by open vote. I think section 18 of the County Councils Act, 1896, has not the effect of repealing our by-law.

In case, therefore, an open vote should be given for warden, and no election can be had during the first day of meeting, I think in any difficulty of that kind we may read section 19 as meaning that on the second day, if no choice is made after two votings, we may then proceed, etc.

Proceedings and Financial Statement of County Council of Brant for 1896.

Minutes, By-Laws, Accounts, etc., of Township of West Flamborough. Ira N. Binkley, Clerk.

Proceedings, By-Laws, etc., of County Council of Waterloo, 1896.

Sunday School Teacher—Now, Reginald, what does the beautiful parable of the prodigal son teach us?

Reginald—It teaches us that we should all be prodigal sons and not fatted calves.