

May inclusive. Is this in accordance with the law? If not, give reasons and dates within which percentage may be added.

Sub-Sec. (1) of Sec. 4 of Chap. 27, Ont. Stats., 1899, intituled *The Assessment Amendment Act, 1899*, empowers councils of cities, towns and villages to pass by-laws for the payment of taxes by instalments on days to be named, and by sub-section (2) they may in default of payment of the taxes or any instalment by the day named for payment impose an additional charge for non-payment by the day or days fixed, not to exceed 5%. Section (3) of the same Act provides "such discount, or additional charge may by the by-law be provided for on the basis of a sliding scale corresponding with the length of time default is made, but so as not in the aggregate percentage to exceed five per cent. as aforesaid." Under the last sub-section we are of the opinion that the by-law passed by your council is a valid by-law. We may, however, say that we do not think much of this legislation, (we are referring to sub-section (3),) because a by-law passed under its authority is pretty certain to encourage delay in the payment of taxes and collectors will not make their returns within the time limited by the Assessment Act, and the result will be that difficulties will arise in cases where it becomes necessary to return taxes against lands.

Change in Drainage Assessment Cannot be Made After Close of Court of Revision.

549—ESSEX.—An engineer laid out a drain and assessed lands for an outlet \$50.00. The owners stated at Court of Revision that he could not use it as an outlet, so the Court of Revision reduced the assessment to \$20.00. The owner, after the drain is constructed, takes advantage of the drain and drains more acres into it than was stated at Court of Revision. In what way could he be compelled to pay a fair portion for the use of the tap drain?

We do not think there is any remedy by which the party referred to can be compelled to pay more than the amount of his assessment as fixed by the Court of Revision.

Grant by County Council to Aid Roads in Local Municipality.

550—B. A.—A county council makes a grant to a township municipality for improving the roads, and the county district commissioner applies to the township council for information where they wish it expended. They pass a motion that a portion of the grant be expended on a certain hill and supplement the county grant, appointing a township road commissioner to expend the money. At the letting of the job the commissioners disagree, the township commissioner wishing to cut the hill, the county commissioners wishing to grade and gravel, making the hill steeper, and did so, telling the township commissioner it was a county grant and he would spend it how he pleased.

1. The hill being on a road not assumed by the county, but under the jurisdiction of

the township council, had the county commissioner the right to expend the money as he did, contrary to the wishes of the township representative?

2. Can a county council make grants to improve township highways and expend the money without consulting with the township council? If so, who would be responsible for any damage that may occur?

3. Should the grant be made to the minor municipality for the council to expend, or how should it be expended, so as to prevent disagreements?

1. Assuming that the county council had authority to make this grant, its commissioner would have power to direct and regulate the expenditure of the money under the authority of the county council, but unless the local road in respect of which the county grant was made was a new road, or one running into a county road, the grant was illegal. (See section 615 and sub-sections 5 and 6 of sections 657 of the Consolidated Municipal Act, 1903.)

2. Yes, provided they are such roads as are mentioned in the above sections of the Act. The local municipality would still remain responsible for damages occasioned by reason of the non-repair of the highway.

3. This is a matter for agreement between the local and county councils. Since the grant is being made by the county council, it should appoint a commissioner to look after the expenditure of the money, who would be responsible to them for the proper carrying out of the work. Assuming, of course, that the roads are such that the county can legally make a grant in respect of them, as mentioned in our reply to question number one, a definite understanding should be entered into between the councils concerned as to how and where the work is to be done, and the commissioner appointed by the county council to oversee the work should be instructed accordingly.

Payment of Fees of Medical Health Officer.

551—J. P. M.—When a municipality engages a medical health officer to attend all contagious diseases, including small-pox, at a fixed fee, for placarding and fumigating house where any contagious disease breaks out, and when he makes any more visits than those two mentioned who has a right to pay him, the municipality or the party whom he is attending? I mean if the party is quite able to pay, has the doctor to collect himself from those parties, or has the municipality to pay him and then collect from parties? I always maintained that the medical health officer had to collect himself, and then if he could not collect, the municipality would have to pay him.

We agree with the clerk's idea of this matter. The council cannot be held liable to pay the medical health officer any further sum than the remuneration agreed upon, and if the parties afflicted with the contagious disease

desire him to perform services for them in addition to those for which the council has agreed to pay, they must bear the expense themselves.

Qualification of Municipal Voters and Voters on Money By-Laws.

552—X. Y. Z.—A. Kindly inform me if section 86 of the Consolidated Municipal Act, sub-section 1, means that, firstly, freeholders; secondly, tenants; thirdly, income voters, and fourthly, farmers' sons, have the right to vote at municipal elections whether their names appear on the voters' list or not; that is to say, on the last revised voters' list as certified to by the County Judge?

B. If so, what is the procedure to be taken in such cases?

C. If they have the right to vote at municipal elections, does it include voting on money by-laws?

D. If so, what procedure must be followed to enable them to record their votes?

A. None of the persons named in section 86 of the Consolidated Municipal Act, 1903, have any right to vote at municipal elections unless their names are duly entered in the proper list of voters. Section 89 of the Act provides that "except in the case of a new municipality for which there is no assessment roll, no person shall be entitled to vote at any election unless he is one of the persons named or intended to be named in the proper list of voters."

B. Our answer to question A renders it unnecessary to reply to this.

C. The municipal voters' list cannot legally be made use of to ascertain the names of persons entitled to vote on money by-laws. The list to be used on a vote of this kind is one to be specially prepared by the clerk pursuant to the provisions of section 348 of the Act from the *then last revised assessment roll* of the municipality.

D. Our answer to question C renders it unnecessary to reply to this.

Refund of Overpaid Instalments of Tile Drain Rates

553—TILE DRAIN.—A number of our residents took advantage of the Tile Drain Act about the year 1886, and have been paying the same in since. Now the treasurer of Ontario notifies the treasurer of the township that owing to the lowering of the rate of interest the said debentures are cancelled, and as provision had to be made to meet said debentures the clerk had it entered on the roll and collected. Now the question is, Can the council pass a resolution giving the parties who paid said debentures a rebate of the amount of money in the hands of the township treasurer after settling for said debentures in full, as there is about \$100 surplus left after settling for the year's assessment on said drains now, as said money was paid by the owners of the farms who paid for said debentures, are they not entitled to get it back?

The ratepayers are entitled to recover from the municipality any sums they have paid in excess of the amount