

Special Improvement Districts, Collection of Taxes for. Taxes, Collection of for City or Town by County Officers. Cities and Towns, Collection of Special Improvement District Taxes.

The County Treasurer when acting as tax collector for cities or towns, has no discretion as to what amount he shall collect, he being bound by the certificate of the city clerk in this matter.

January 15, 1915.

Hon. D. L. Blackstone,
County Attorney,
Chinook, Montana.

Dear Sir:

I have your letter under date the 31st ultimo, in which you state that certain persons owning property within special improvement districts have allowed their taxes and special assessments to become delinquent. The City Council then declared the whole sum due for special improvements, under the provisions of Chapter 89 of the Session laws of 1913. It appears further that the county treasurer has advertised the delinquent property for sale for the full amount of the state, county and town taxes, and for the full amount of the special improvement assessments for the eight years. You have been asked this question: May the county treasurer permit owners of said property to pay the state, county and town taxes in full, and the special improvement assessment for one year,—or must he hold such owners for the payment of the full amount of the eight special assessments?

This office has heretofore had under consideration the provisions of Chapter 89 of the Session Laws of 1913, and the relations of the county to the state in regard to the collection of special improvement assessments. In an opinion to Hon. H. S. Magraw, State Examiner, under date February 3rd, 1914, which opinion appears at page 430, Volume 5, Opinions of Attorney General, it was held that the county acts only as agent of the city in the collection of special improvement district assessments. If the county acts only as agent, it or its tax collecting officer, has no discretion in the matter of allowing delinquents to pay only the current assessments after the city council has declared the whole sum to be due, under the provisions of Section 27 of Chapter 89 of the Session Laws of 1913. His only knowledge as to the amount due is that appearing in the certificate of the city treasurer when the tax roll is certified up to him for collection. Section 27 of Chapter 89 of the Session Laws of 1913, is in part as follows:

"It shall be the duty of the city treasurer of every city whose taxes for general, municipal and administrative purposes are certified to and collected by the county treasurer to certify to the county treasurer of the county in which such city is situated all special assessments and taxes levied and assessed in accordance with any of the provisions of this Act, and the county treasurer must collect the same in the same man-

ner at the same time as said taxes for general, municipal and administrative purposes are collected by him."

This provision of the law seems to leave no discretion in the county treasurer as to what he shall collect. He can, therefore, look only to the certificate of the city clerk for his authority.

Yours very truly,

D. M. KELLY,

Attorney General.