

the roll was delivered to the collector), the council passed a resolution that the collector proceed at once to collect the taxes for 1886; on 7th March, 1887, another resolution instructing P. Brady (the defendant) to enforce the payment of the uncollected taxes at once; on 14th November, 1887, a resolution that P. Brady, collector, be instructed to have the roll for 1886 returned by the 24th inst.; and on 17th January, 1888 (after the distress and before the replevy), a resolution that the time for the collection of the unpaid taxes for 1886 be extended until the 15th February, 1888, and that P. Brady be authorized to collect until that date. The roll for 1886 remained in the hands of the defendant from the time of the delivery of it to him until after the distress and replevy.

*Held*, that the defendant was either the collector within the meaning of s. 132 when he made the distress, and having the roll still in his hands unreturned was authorized to make it, following *Newberry v. Stephens*, 16 U.C.R., 65; or he was a person authorized as collector, or in the stead of the collector, by the resolution of the council to continue the levy and collection under s. 133, which provides no limit of time in such case; and in either case the distress by him was valid.

(4) By the by-law providing for the assessment and levying of rates for 1885 passed by the council on 11th December, 1885, the defendant was appointed collector to collect the rates for 1885.

On the 23rd December, 1886, the defendant entered into a bond with sureties as collector to the corporation of the village, which recited that he had been appointed collector; and on the same day a resolution was passed by the council that the bonds of P. B. as collector be accepted, as presented to the council; but no other appointment of the defendant as collector was proved, and the defendant swore that he did not think he made any declaration of office for any year.

*Held*, that the effect of the defendant's not having made and subscribed the declaration required by s. 271 of the Municipal Act, R.S.O., c. 184, was not to make his acts void; and having been duly appointed by by-law collector, he held office until removed by the council, even if what was done by the council on the 23rd December, 1886, did not constitute a good appointment.

(5) *Held*, that the appointment in December, 1887, of another person to collect the rates for 1887 had not the effect of removing the defendant from office; for it was an appointment for that year only, and by s. 12 of the Assessment Act the council might appoint such number of collectors as they might think necessary; but even if it had that effect, the roll for 1886 had not been returned by the defendant, and the resolution of the 17th January, 1888, authorized him to continue the collection under s. 133, and legalized the distress then made.

(6) It was proved that the defendant on the 11th January, 1887, duly demanded the taxes distrained for.

*Held*, that this demand was sufficient to warrant the distress, and the fact that the defendant several times afterwards demanded the same taxes did not affect the validity of the first demand, which was the only one required.

*R. M. Meredith*, for the plaintiff.

*S. H. Blake, Q.C.*, for the defendant.

Divisional Court.]

[March 7.

LANG v. SLINGERLAND.

*Bail—Discharge—Action on recognizance—Surrender of principal—Notice of surrender—Exoneretur—Bail relieved on terms—Amount of recovery against bail—Rules 1062, 1064, 1085.*

The defendants were special bail for one S., upon a recognizance in an action by plaintiff against S.

The proceedings in the original action were begun and carried on in the County of Middlesex, and the condition of the recognizance was that S. would, if condemned, satisfy, etc., or render himself to the custody of the sheriff of Middlesex, or the cognizers, the present defendants, would do so for him. The defendants on the 7th February 1888, rendered S. to the sheriff of Norfolk, S. being found in that county, and obtained from the sheriff a certificate of such render, but obtained no order for the entry of an exoneretur. The writ of summons in this action upon the recognizance was served on the defendants on the 10th of April, 1888, and on the 16th of April, 1888, the defendants served on the plaintiff a notice of the render of S. to the sheriff of Norfolk.