

From Divisional Court.]

[June 29.

CASTON v. CITY OF TORONTO.

*Assessment and taxes—Failure to distrain—Enforcing payment in a subsequent year.*

Where during all the time the roll is in the collector's hands there are goods and chattels available to answer the taxes but the collector fails to distrain, the amount due cannot be added to the taxes for a subsequent year and then levied by distress upon the goods of the tax debtor.

The provisions of section 135 of R. S. O. (1887) c. 193, (R. S. O., c. 224, s. 147), requiring the collector to state the reason for his failure to collect taxes and to furnish a duplicate of his account to the clerk are imperative, and if they are not observed the amount due cannot be added to the taxes for a subsequent year and then levied by distress upon the goods of the tax debtor. Judgment of a Divisional Court, 30 O. R. 16, affirmed.

Fullerton, Q.C., and W. C. Chisholm, for appellants. Clute, Q.C., and J. W. McCullough, for respondent.

From Meredith, J.]

[June 29.

TYTLER v. CANADIAN PACIFIC RAILWAY COMPANY.

*Action—Jurisdiction—Canadian Pacific Railway Company—Negligence in another Province—Service of writ.*

The personal representative appointed in this Province of a person killed in British Columbia through the negligence there of servants of the Canadian Pacific Railway Company may bring an action in this Province against the Company to recover damages, and may serve the writ on the defendants in this Province in accordance with the provisions of Consolidated Rules 159 and 160. Judgment of MEREDITH, J., 29 O. R. 654, affirmed.

Robinson, Q.C., Aylesworth, Q.C., and MacMurchy, for appellants. Tytler, for respondent.

From Divisional Court.]

[June 29.

IN RE LEAK AND THE CITY OF TORONTO.

*Municipal corporations—Arbitration and award—Lands injuriously affected—Compensation—Damages—Interest.*

Compensation for lands injuriously affected in the exercise of municipal powers is in the nature of damages, and interest should not be allowed thereon before the time of the liquidation of the damages by the making of the award. Judgment of a Divisional Court, 29 O. R. 635, reversed.

Fullerton, Q.C., and W. C. Chisholm, for appellants. Du Vernet, for respondent.