

Collectors Duties.

In cases where collectors have to resort to compulsory measures, although they are authorized to levy in person, and without the authority of any process, yet it is scarcely contemplated that the collectors themselves would, as a matter of course, act the part of bailiffs and auctioneers in seizing and selling; so, while the power is given to the collector, still, it is also said, he may, by his agent, levy, and when the bailiff or agent is appointed he should receive a warrant in the following form:

City of } To A. B., my Bailiff.
to wit:

You are hereby authorized; and required to distrain the goods and chattels of C. D. of, &c., which you shall find on the premises of the said C. D. at, &c., or any goods and chattels in his possession, wherever the same may be found within the county of, &c., for the sum of, &c., rated against him for taxes on the collector's rolls of, &c., for the year, &c., and now in arrear and unpaid, and in default of payment of such arrears of taxes and the lawful cost of the said distress according to law, for the recovery of the said arrears of taxes together with said costs, and for you so doing this shall be your sufficient authority.

Given under my hand etc., this
day of A. D., 18

E. F., Collector.

Of course the collector is liable for anything done by the bailiff, which he had authorized him to do. If, at any time after the demand has been made, or the notice served pursuant to such bylaw, or in the case of cities or towns, after the demand has been made or notice served by the collector as aforesaid, and before the expiration of the times of the payment of the taxes, the collector has good reason to believe that one party by whom taxes are payable is about to remove his goods and chattels out of the municipality before such time has expired, and makes affidavit to that effect, before the mayor or reeve of the municipality or before any justice of the peace, such mayor, reeve or justice shall issue a warrant to the collector, authorizing him to levy for the taxes and costs, in the manner provided by the Assessment Act, although the time for payment may not have expired.

To prevent misunderstanding, a city is deemed to be within the county of which it forms judicially a part.

In the case of persons whose names appear on the roll, but who are not residents within the municipality, the collector shall send to him by post, addressed in accordance with the notice given by such non resident, if notice has been given, a statement and demand of the taxes charged against him in the roll, and shall, at the time of such transmission, enter the

date thereof on the roll opposite the name of such person. The notice is required to contain, written or printed, on some part thereof, the name and post office address of the collector.

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As provided in section 126 of the Assessment Act, a collector may make distress of any goods or chattels which he may find upon the land of non-residents who have required their names to be entered on the collector's roll, only after one month from the date of the delivery of the roll to him, and after fourteen days from the time such demand or notice, as aforesaid, has been so transmitted by post. If this notice has not been given by non-residents, and their names still appear on the roll, the collector has no authority to levy the tax by distress. After the collector has levied the taxes with costs by distress, on the goods and chattels of a person who should pay the same, or of any goods and chattels in his possession, wherever the same may be found in the county in which the local municipality lies, or of any goods or chattels found on the premises, the property of, or in possession of any other occupant of the premises, he should, by advertisement, posted up at least in three public places in the township, village or ward, wherein the sale of the goods and chattels distrained is to be made, give at least, six days' public notice of the time and place of such sale, and the name of the person whose property is to be sold, and at the time named in the notice the collector or his agent shall sell at public auction the goods and chattels distrained, or so much thereof as shall be necessary. If the property distrained is sold for more than the amount of the taxes and costs, and no claim of the surplus is made by any other person on the ground that the property belonged to them, or that he was entitled by lien, such surplus shall be returned to the person in whose possession the property was when the distress was made. If such claim is made by the person for whose taxes the property was distrained, and the claim is admitted, the surplus shall be paid to the claimant. If the claim is contested, such surplus shall be paid over by the collector to the treasurer of the local municipality, who shall retain the same until the respective rights to the property shall be determined by action or otherwise.

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If the taxes payable by any person cannot be recovered in any special manner provided by this Act, such as distress and sale of the goods of resident taxpayers, and the sale of land in the case of non-residents who have requested their names to be put on the roll, and before a municipal corporation can sue for the taxes imposed in the ordinary manner upon a resident ratepayer, the corporation must be able to show, in the first place, that the defendant's name is on the roll and, in the next place, that they have done what

would be necessary to entitle them to distrain by warrant for the taxes. If a person sued have goods that might be seized, except perhaps where there would be no occasion to make the previous demand mentioned in section 124, a ratepayer cannot be made to pay a tax of which notice has not been given him as the law has provided. In order to entitle a corporation to sue a non-resident owner, it must not only appear that the special remedy provided by the Act is unavailable, but that the defendant's name is on the roll, and it must also be distinctly averred and proved that the owner has requested his name to be placed on the roll.

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In section 124 it is stated that the collector may levy the taxes with costs by distress of the goods and chattels of the person who ought to pay the same, or of any goods or chattels in his possession wherever the same may be found within the county. The person who ought to pay the same is the person in possession of the land in respect of which the taxes are payable at the time of the seizure. If he is not actually assessed for the premises, etc., as mentioned in section 27 of chap. 143, R. S.O., 1887, he is entitled to exemptions mentioned and enumerated in section 2 and following sections of chapter 64, R. S.O., 1887. If there is any agreement between the person actually assessed, and the person in possession as to payment of taxes, they should fight it out between them, and the collector or his municipality should not be compelled to enquire into or be guided by the terms of the agreement.

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Costs allowable to collector or his bailiff in enforcing warrant of distress:

Enforcing warrant:	
Where amount of taxes does not exceed \$20.....	\$ 50
Where amount of taxes does not exceed \$60, but above \$20.....	75
Where amount of taxes exceed \$60. 1.00	
For every mile necessarily travelled in going to seize under warrant, where money made, or paid after levy.....	12
Every schedule of property seized.	
Not exceeding \$20.....	30
Exceeding \$20 and not exceeding \$60.....	50
Exceeding \$60.....	75
Every bond, when necessary.....	5c
Every notice of sale, not exceeding three, each.....	15
Necessary disbursements and allowances for removing or retaining property seized.....	3%

Five per cent. on the amount realized from the sale of property seized, such percentage not to apply to any overplus.

If warrant be satisfied in whole or in part after seizure and before sale, collector or his bailiff to be entitled to charge and receive three per cent. on the amount realized.