

say" Then follows a list of exempted property. "Income" is "property" as defined by sub-sections 8 and 10 of section 2 of the same act. The officials whose income is expressly exempted are mentioned in sub-sections 12, 13 and 14 of section 7. By the sub-sections the official income of the Governor General of Canada and the Lieutenant-Governor of Ontario, the full or half pay of officers, etc., of Her Majesty's Regular Army, etc., and all pensions of \$200 a year and under payable out of the public moneys of the Dominion of Canada are exempt. The salaries of other Dominion officials are not in express terms exempted and the fact that certain Dominion officials are expressly exempted seems to imply that the Legislature assumed that it had the power to tax and intended to tax the income of the Dominion officials and the Court of the Queen's Bench (Harrison C. J. dissenting) in the case of Leprohon vs. Ottawa U. C. R. 478 held that the Legislature had such power, but Court of Appeal, 2 Ap. R. 522 reversed that decision holding that a Provincial Legislature has no power to impose a tax upon the official income of an officer of the Dominion Government or to confer such power on the municipalities.

(b) This raises a nice question. The remedy by way of distress provided by Section 135 of The Assessment Act, R. S. O., 1897 does not appear to apply to the case of income tax, but the tax may be recovered by suit under section 142.

(c) Yes.

(d) Rent, fuel, help, etc., properly chargeable against earnings should be deducted. Take for example the case of a doctor. Rent of office, fuel, salary of office boy, keep of horse, etc., should be deducted from the gross income and the net amount assessed.

2. The change in the constitution of town councils as provided for in Act of 1898, does not effect the Voters List which is to be made out as heretofore by polling sub-divisions, and the council will be elected by a general vote the same as the mayor or reeve in past years.

3. After the incorporation of a town, the clerk is required to send the non-resident tax roll to the town treasurer, who is also entitled to receive from the collector each year, after he has completed his duties, an account of all taxes remaining due on the roll. The treasurer should have a suitable book for the purpose and enter the arrears of taxes, and on the first day of May in each year should add 10 per cent. thereto. Where the taxes on any property have been in arrear for the three years next preceeding the first of January in any year, the treasurer of the town is required to furnish the Clerk of the municipality with a list of all lands in arrear for the said three years and which are liable to be sold for arrears of taxes during the year. The clerk is required to keep this list, and to deliver a copy thereof to the assessor, and

it is the assessor's duty to ascertain if any lot or parcel of land contained in the list is occupied or incorrectly described, and to notify such occupants and also the owners thereof if known, whether resident within the municipality or not, upon the respective assessment notices that the land is liable to be sold for taxes, and to enter into a column reserved for the purpose opposite each lot, the particulars as to whether "occupied" "parties notified" or "not occupied" or "incorrectly described." This return is required to be signed by the assessor and verified by oath of affirmation. After the receipt of this list the clerk is required to make a return to the treasurer showing all lands which have been returned by the assessor as "occupied" or "incorrectly described," and the treasurer is required to furnish the Clerk of the town, an account of all arrears of taxes due in respect of such occupied lands, including percentage so that he may enter them on the collector's roll. After these returns have been made all lots included in the list furnished to the assessor, which are not returned as "occupied" are ready for sale. The Council may extend the time for the enforced collection by sale of non-resident taxes beyond the term of three years by by-law passed for that purpose. This does not relieve the clerk or treasurer of any of the duties above referred to. Before proceeding with the sale, the treasurer is required to receive instructions from the Mayor under the seal of the Municipality, commanding him to levy upon the land for the arrears due thereon with his costs. The treasurer should then prepare a list of lands liable to be sold, and include therein, in a separate column a statement of the proportion of costs chargeable on each lot for advertising and for the commission authorized by the Act to be paid to him, and to cause such list to be published for four weeks in the Ontario Gazette and once a week for 13 weeks in some newspaper published in the municipality, county or adjoining county. The advertisement should contain a notification that unless the arrears and costs are sooner paid, the treasurer will proceed to sell the land for the taxes on a day and at a place named in the advertisement.

The assessment Act is very clear in reference to treasurer's duties in reference to sale of land for taxes. The preliminary proceedings are most important, and in order that he may know exactly what lands are in arrears, and amount of tax and per centage due, he should keep a special book for the purpose, it is very inconvenient to rely on the Collectors rolls which are not supposed to contain the taxes on property assessed as non-resident.

4. The course pursued by the Council ought to be avoided as far as possible. The taxes ought to be collected by the first day of February. See Sec. 144 Assessment Act R. S. O., 1897. If the

collector fails to collect them by the day appointed, the Council may authorize the collector or some other person to continue the collection. See Sec. 145. The law is pretty well settled that so long as the roll is unreturned the collector or some other person authorized by the Council may lawfully distraint and collect the taxes and this being so we cannot see why the arrears cannot be returned against the lands and such lands sold provided the subsequent proceedings are regular.

#### Tax Exemptions Farm Lots in Village.

264.—E. B.—This village embraces within the limits of the corporation, farm and wild lands not laid out in village lots and having no roads or streets running through the same. The owner of some property of this description has applied to the council to pass a by-law to exempt certain specified lands from taxation for expenditure incurred for sidewalks and street lighting as provided by sect. 8. chapter 224 R. S. O. 1897. The village does not strike a separate rate for lighting or cost of sidewalks, these being included in the general expenditure of the municipality for which the ordinary "village rate" is levied. This being the case, it would appear to be impracticable to exempt the party in question from taxation for lighting and sidewalks, such expenditure not being kept separate from other expenditures. Please say whether (a) in your opinion this section is intended to apply only where special rates are levied for the purposes therein indicated, and also whether (b) the lands in question must be all under cultivation and used as farm lands (not merely wild lands) in order to claim this exemption?

Where a person who brings himself within sub-section (1) of section 8 gives notice as required by sub-sec. (3), it is the duty of the council to pass a by-law as directed by sub sec. (2). The method adopted or pursued in the levying of rates cannot deprive him of the benefit of this section. (a) General rates for the particular objects mentioned in it. (b) The section applies to such lands as are held and used as farm lands only.

#### Spreading Gravel on Road in Winter

See Also No. 257.

265.—T. C. M.—Road surveyor who let job was duly appointed by Council. The Council was aware he let jobs. Job was let in June 1897 but no definite time set for completion. For his own convenience party who undertook job drew gravel in winter of 1898 and spread on public road without providing any other road. A ratepayer in drawing a load broke his sleigh and harness while getting over said job and prefers a claim for damages amounting to \$15.00 with instructions to his solicitor to sue the township council, if claim is not paid.

1. Who is liable for claim, party who obstructed the road or township?
2. If the township settles claim with plaintiff can they collect from party who had job?
3. Can Council hold price of job until claim is settled?
4. Could Council settle claim out of price of job as the party who did the work has not yet been paid?
5. Is Council justified in holding price of job until claim is settled?

If the council had no notice that the gravel had been placed where it was and it was not there for such a length of time that it was negligently ignorant of its existence, the municipality is not liable. If the surveyor knew of its existence that