

cause the Council of the said city is authorized by the charter of the said city to license and regulate, but not to tax, junk stores, and has only the right to charge a reasonable fee for the cost of the license and for the labor attending the issue thereof, but not to use such license as a means of raising revenue for the said city." "Because the said by-law illegally requires that the sum of fifty dollars shall be paid for the issue of a license in virtue thereof." "Because the said sum of fifty dollars is more than the reasonable cost of such a license as is contemplated by said by-law and of the labor attending the issue of the same, and of inspecting and regulating the business of persons carrying on the business of junk dealers, and the same is sought to be collected from the defendant as a tax for revenue purposes." "Because the defendant has already been taxed and has already paid the full amount of the business tax allowed by law, to wit, seven and one half per cent. on the annual value of the premises by him occupied for his business."

Let us now examine the clauses of the city charter bearing upon this matter. Section 78 of the charter, 37 Vic., c. 51, as amended by 39 Vic., c. 52, section 1, says: S. 78. The said Council may pass and promulgate a by-law or by-laws for the following purposes: * * *

S.S. 1. To impose and levy an annual assessment on all real property liable to taxation in the said city, or upon the owners or occupiers thereof, such assessment not to exceed one and a quarter per cent. of the assessed value of such property.

S.S. 2. To impose and levy an annual tax (to be called the "business tax") on hotel-keepers, brewers, distillers, merchants, traders, &c., &c., and generally on all trades, manufactures, occupations, business, arts, professions or means of profit or livelihood, whether hereinbefore enumerated or not, which now are or may be hereafter carried on, exercised or in operation in the said city; PROVIDED that such business tax shall not exceed seven and one-half per cent. on the annual value of the premises occupied by the said parties in the said city, in which they carry on or exercise such trades, manufactures, occupations, business, arts, professions, or means of profit or livelihood.

S.S. 3. To impose and levy an annual tax on pedlars and carters doing business in the said

city; on owners of horses, vehicles and dogs in the said city; on brokers, money lenders or commission merchants; on pawnbrokers and auctioneers; on innkeepers, brewers and distillers; on theatres, circuses, menageries and minstrels; on billiard tables; on livery stable keepers; and on ferrymen or steamboat ferris plying for hire for the conveyance of travellers to the city, from any place not more than nine miles distant from the same; provided such tax do not exceed those respectively imposed in the year 1874."

S.S. 4 refers to statute labor. S.S. 5 and 6 to tax on insurance companies. S.S. 7 to tax on banks. S.S. 8 to tax on gas companies. Section 81 says: "Every special tax imposed in virtue of the foregoing provisions may, in the discretion of the said council, be a fixed annual rate on all or any of the several classes of persons subject to such tax, and on the premises by them occupied for the purpose of their trade, business or manufacture, or a proportional tax to be determined by the said council according to the assessed annual value of the real estate or any part thereof, occupied as aforesaid, or according to the annual value of the lease of such real estate or any part thereof, occupied as aforesaid, by the persons liable to such tax, or by both modes at once, that is to say, a fixed tax on the persons liable to such tax, and a proportional tax on the real estate occupied as aforesaid; or only a fixed tax on such person, according as the said council may in each case consider it to be the most advantageous to the said city; the said council may also, if they see fit, impose the said tax in the form of a license payable annually at such time, and under such conditions and restrictions as the said council may determine."

S. 123—1. "The Council of the said city may make by-laws for the following purposes, that is to say:—26. To license and regulate junk stores, wherein bits of brass, lead, or iron, pipes, cocks, cord, old furniture, or other like articles are sold."

27. "To establish and regulate public markets and private butchers' or hucksters' stalls; and to regulate, license or restrain the sale of fresh meats, vegetables, fish, or other articles usually sold on markets," &c.

Looking carefully through these clauses, the only one which *nominalim* mentions the junk