

Collection of Taxes.

It is the duty of the collectors of taxes upon receiving their collection rolls to collect the taxes therein mentioned. Section 133 of the Assessment Act.

PROCEEDINGS BEFORE SEIZURE CAN BE MADE—DEMAND.

Before a seizure can be made by a collector upon a man's chattels, for taxes, a demand must be made for them, or notice served in the manner provided by section 134. In cities and towns he may adopt either of two courses: (a) He shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality, and for which such collector has been appointed, and shall demand payment of the taxes payable by such person; (b) or he shall leave or cause to be left with the person taxed, or at his residence or domicile or place of business, or upon the premises in respect of which the taxes are payable, a written or printed notice, specifying the amount of such taxes. Sub-sec. 1 of Sec. 134.

The written or printed notice above mentioned shall have written or printed thereon, for the information of the ratepayer, a schedule specifying the different rates and amounts on the dollar to be levied for each rate, making up the aggregate of the taxes referred to in such notice. Subsection 2 of section 134.

In other municipalities he shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality in and for which such collector has been appointed, and shall demand payment of the taxes payable by such person. Subsection 3 of section 124. In these municipalities the collector cannot make use of and leave a printed notice as in the case of cities and towns, unless there is a by-law authorizing him to do so, but the municipality may empower the collector by by-law to leave with the person taxed, or at his residence, or domicile, or place of business, a written or printed notice specifying the amount of taxes.

ENTRY UPON ROLL.

It is the duty of the collector immediately after having made a demand or given the notice above mentioned, to enter the date thereof on his roll, opposite the name of the person taxed. This is important because the statute makes such entry *prima facie* evidence of such demand or notice.

WHEN DISTRESS CAN BE MADE.

A distress cannot, except in the case provided for by section 4 of section 135, be made legally until the expiry of fourteen days after the demand or notice, or, where the council has, under section 60, passed a by-law appointing a day for payment of the taxes at any time after the expiration of fourteen days from the giving of such notice or making of such demand, or after the day appointed for the payment by such by-law, whichever

last happens. If a demand is made, say on the first day of October, a distress cannot be made until the sixteenth day of October, because the day upon which the demand is made is excluded and the taxpayer has the whole of the 15th within which to pay his taxes. Section 60 and subsection 1 of section 135.

Under subsection 4 of section 135, if after demand made or notice served and before the expiry of fourteen days, the collector has good reason to believe that any person in whose hands goods and chattels are subject to distress, is about to remove such goods and chattels out of the municipality before such time has expired, and makes an affidavit to that effect before the mayor or reeve or a 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.

A COLLECTOR MAY LEVY BY DISTRESS.

1. Upon the goods and chattels, wherever found, within the county in which the local municipality lies, belonging to or in the possession of the person who is actually assessed for the premises and whose name appears upon the collector's roll for the year as liable therefor (and who is hereinafter called the "person assessed.") Under this subsection the collector may seize the goods belonging to the person actually assessed for the premises and whose name appears upon the roll for the year as liable therefor or he may seize any goods and chattels in his possession in any part of the county. In such a case the collector need not concern himself about the ownership of the goods. If they are in the possession of the person assessed he may seize and sell them. Subsection 1, section 135.

2. Upon the interest of the person assessed in any goods on the premises, including his interest in any goods to the possession of which he is entitled under a contract for purchase or a contract by which he may or is to become the owner thereof upon performance of any condition. This subsection applies to cases where the person assessed has only an interest in the goods. Farmers often buy farming implements under special contracts by which the seller retains title in himself and gives the farmer the right to retain possession of and use the goods until he pays the price according to the terms of the contract. It will be observed that in a case within subsection 1, a seizure may be made anywhere in the county, but the right to seize under subsection 2 is confined to the premises. If, however, such goods as these are found in the possession of the person assessed within the meaning of subsection 1, why cannot the collector seize and sell the goods without regard to who is the owner of them?

We think he can, because subsection 1 authorizes the collector to seize the goods and chattels in the possession of the person assessed anywhere within the county. If the collector finds such goods

off the assessed premises and not in the possession of the person assessed, he cannot touch them at all. If he finds them on the assessed premises in the possession of the person assessed he may seize and sell them without regard to who owns them. If they are on the assessed premises, but they are not in the possession of the person assessed he can only seize and sell the interest of the person assessed on them. Subsection 2, s. 135.

3. Upon the goods and chattels of the owner of the premises found thereon, whether such owner is assessed in respect of premises or not.

Under this section the goods of the owner though not assessed may be distrained on the premises, but such goods cannot be distrained off the premises.

4. Upon any goods and chattels on the premises where title to the same is claimed in any of the ways following:

(a) By virtue of an execution against the owner or person assessed; or

(b) By purchase, gift, transfer or assignment from the owner or person assessed, whether absolute or in trust, or by way of mortgage or otherwise; or

(c) By the wife, husband, daughter, son, daughter-in-law or son-in-law of the owner or person assessed, or by any relative of his, in case such relative lives on the premises as a member of the family; or

(d) Where the goods liable for the taxes have been exchanged between two persons by the one borrowing or hiring from the other for the purpose of defeating the claim of, or the right of distress for the non-payment of taxes; and subject to the provisions of the preceding clause numbered 4, where the owner or person assessed is not in possession, the goods and chattels on the premises, not belonging to the owner or person assessed, shall not be subject to seizure; and the possession by the tenant of said goods and chattels on the premises shall be sufficient *prima facie* evidence that they belong to him. 55, V. c. 48, s. 124 (1); c. 49, 19, (1); 59, V. c. 58, s. 6, s. 7, (1); 60, V. c. 3, s. 3; c. 15, sched. C. (133).

In cases under this subsection the distress can only be made on the premises, and, except in the cases referred to in clauses a, b, c, and d, the goods and chattels on the premises not belonging to the owner or person assessed cannot be distrained where the owner or person assessed is not in possession.

PROVISIONS AS TO GOODS IN HANDS OF ASSIGNEE OR LIQUIDATOR.

Provided nevertheless, that no goods which are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the same, or of selling the same upon commission or as agent, shall be levied upon or sold for such taxes; and provided further that goods in the hands of an assignee for the benefit of creditors, or in the hands of a liquidator under a winding up order shall be liable only for the taxes of the assignor or of the company which is being