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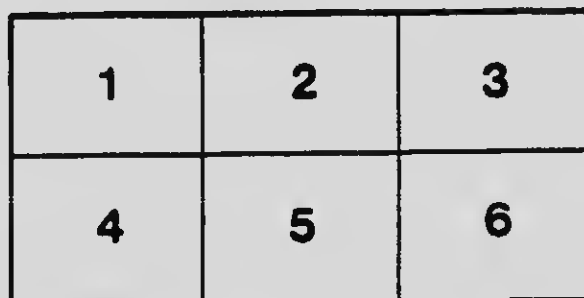
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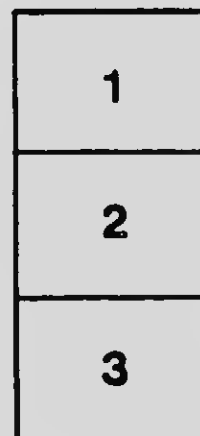
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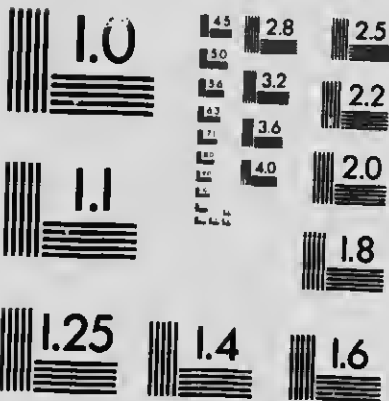
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# THE ASSESSOR'S GUIDE

—BY—

JAMES MORRISON GLENN, K.C., LL.B.  
OF OSGOODE HALL, BARRISTER-AT-LAW.

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FIFTH EDITION

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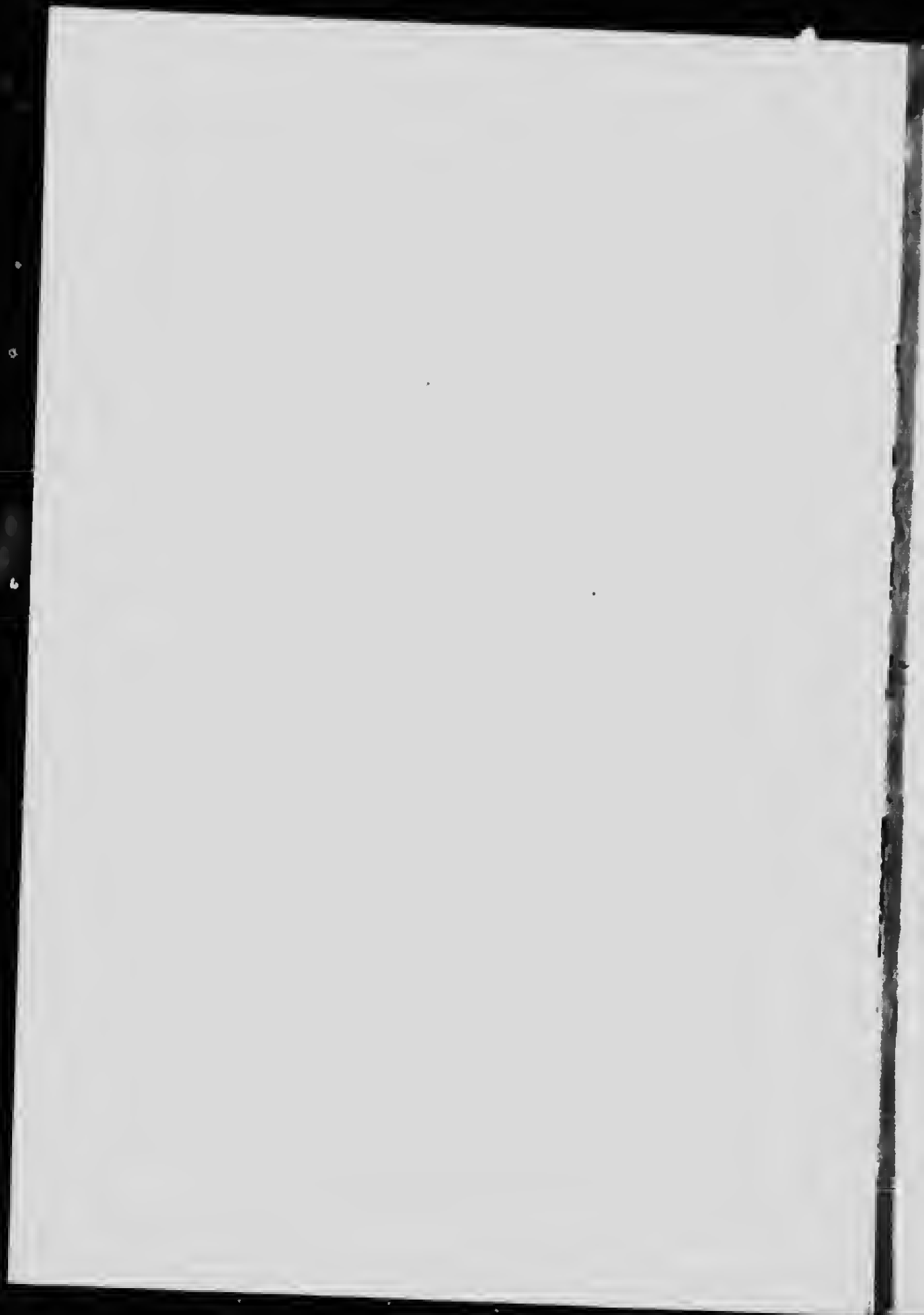
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# THE ASSESSOR'S GUIDE

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CONTAINING THOSE PORTIONS OF THE ASSESSMENT  
ACT, CHAP. 23, 4 ED. VII., TOGETHER WITH OTHER  
STATUTORY ENACTMENTS RELATING TO  
THE DUTIES OF ASSESSORS AND  
COURT OF REVISION AND  
THE ASSESSMENT OF  
PROPERTY IN  
ONTARIO

WITH NOTES OF THE MOST IMPORTANT DECIDED  
CASES, ET

BY

JAMES MORRISON GLENN, K C., LL. B.  
OF OSBOORNE HALL, BARRISTER-AT-LAW

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# Assessors and Their Duties

THE ASSESSMENT ACT, CHAP. 23, 4 ED. VII. (O)

**HIS MAJESTY**, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

## PRELIMINARY PROVISIONS.

1. This Act may be cited as "*The Assessment Act*." Short title  
See R. S. O., 1897, c. 224, s. 1.
2. Where the words following occur in this Act, or the schedules thereto, they shall be construed in the manner hereinafter mentioned unless a contrary intention appears :

1. "Gazette" shall mean " <i>The Ontario Gazette</i> ."	"Gazette."
2. "Township" shall include a union of townships ;	"Township."
3. "County Council" shall include provisional county council ;	"County Council"
4. "Town" and "Village" shall mean respectively incorporated town and village ;	"Town," "Village."
5. "Municipality" shall mean and include a city, town, incorporated village or township, but not a county. R. S. O., 1897, c. 224, s. 2, par. 6 amended.	Municipality
6. "Tenant" shall include occupant and the person in possession other than the owner. New.	"Tenant."
7. "Land," "Real Property" and "Real Estate" shall include :	"Land."
(a) Land covered with water ;	
(b) All trees and underwood growing upon land ;	
(c) All mines, minerals, gas, oil, salt, quarries and fossils in and under land ;	

- (d) All buildings, or any part of any building and all structures, machinery and fixtures, erected or placed upon, in, over, under, or affixed to, land ;
- (e) All structures and fixtures erected or placed upon, in, over, under, or affixed to any highway, road, street, lane or public place or water ; but not the rolling stock of any railway, electric rail way, tramway or street railway. See R. S. O., 1897, c. 224, s. 2, par. 9 ; 3 Ed. VII., c. 21, s. 7 (1). (a)

"Income."

8. "Income" shall mean the annual profit or gain or gratuity (whether ascertained and capable of computation as being wages, salary or other fixed amount or unascertained as being fees or emoluments, or as being profits from a trade or commercial or financial or other business or calling) directly or indirectly received by a person from any office or employment, or from any profession or calling, or from any trade, manufacture or business, as the case may be ; and shall include the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment ; and also profit or gain from any other source whatever. New.

(a) It is often difficult to determine when things are so affixed to land or buildings as to form in law part of realty. The Suspension Bridge, between Ontario and the State of New York, across the Niagara Falls at Clifton, has been held "land." *Niagara Falls Suspension Bridge Co. v. Gardner*, 29 U. C. Q. B., 194-197. (As to the method of assessing international and inter-municipal bridges, see section 43).

It was held by the Court of Appeal in *Toronto Street Railway Co. v. Fleming*, 37 U. C. Q. B. 116, reversing the Court of Queen's Bench in 35, U. C. Q. B. 264, that the Toronto Street Railway was not assessable for those portions of the streets occupied by them for the purposes of their railway, as being land within the meaning of The Assessment Act, 32 Vic. c. 36. But this case has been overruled by the Supreme Court in *Consumers' Gas Co. v. Toronto*, 27 S. C. R., 453, which held that the rails poles and wires of the Toronto Railway Co., used by them in operating their electric railway, and laid and erected in and upon the public highways of the City of Toronto, were subject to assessment under the Consolidated Assessment Act, 1892, as real estate.

It was also held in re *Calgary Gas and Waterworks Co.*, 17 C. L. T. (Oct. N) 309, following *Consumers' Gas Co. v. Toronto*, that the water mains and pipes of the Calgary Gas and Waterworks Co., laid within the City of Calgary were assessable as "land."

As to the assessment of Telephone and Telegraph Companies under the present Act, see section 14.

9. "Insurance Company" shall mean any company or friendly society or other corporation transacting within Ontario any class of insurance to which The Ontario Insurance Act applies or may hereafter be made applicable by any general or special Act of this Legislature. (b). New.

Insurance Company, Rev. Stat., c. 203.

10. "Loan Company" shall mean a "Loan Corporation" within the meaning of The Loan Corporations Act. (c) New.

"Loan Company," Rev. Stat., c. 205.

11. A "Trust Company" shall mean a trust company within the meaning of The Ontario Trust Companies Act. (d) New.

"Trust Company," Rev. Stat., c. 206.

12. "Last revised assessment roll" shall mean the last revised assessment roll of a municipality; and an assessment roll shall be understood to be finally revised and corrected when it has been so revised and corrected by the Court of Revision for the municipality, or by the Judge of the County Court on appeal as by this Act provided, or when the time within which appeal may be made has elapsed. (e)

"Last Revised Assessment Roll."

13. "List of voters" shall mean the alphabetical list referred to in The Ontario Voters' Lists Act. R. S. O., c. 224, s. 2, pars. 11 and 12.

"List of Voters," Rev. Stat., c. 7.

(See also R. S. O. 1897, c. 1, s. 10.)

3. All municipal, local or direct taxes or rates shall, where no other express provision is made, be levied upon the whole of the assessment for real property, INCOME and business or other assessments made under this Act, according to the amounts assessed in respect thereof, and not upon any one or more kinds of property or assessment or in different proportions. (f). R. S. O. 1897, c. 224, s. 6, amended.

All taxes to be levied equally upon all assessments, where no other provision made

(b) See section 2 of chap. 203, R. S. O. 1897, particularly clauses 27 and 37 to 42 inclusive.

(c) See clause 5 of section 2 of chap. 205, R. S. O. 1897.

(d) See section 2 of chap. 206, R. S. O. 1897.

(e) See sections 65, sub-sections 2 to 19 inclusive; 66, 68, sub-sections 2 to 8 inclusive; and 75 of this Act.

(f) All taxes must be levied equally upon the whole ratable property according to its assessed value, and not upon any one or more kinds of property. Doe d. McGill v. Langton, 9 U. C. Q. B. 91; in re Scott and Ottawa, 13 U. C. Q. B. 346.

The net interest and dividends received by the Canada Life Assurance Company, from investments of their reserve fund, form part of their tax-

Rateable  
property; what  
to include. 3  
Edw. VII., c. 19

4. Wherever in The Consolidated Municipal Act, 1903, or in any other general or special Act of this Legislature heretofore or hereafter in force or in any by-law heretofore or hereafter passed under any such Act, the yearly rates or any special rate are expressly or in effect directed or authorized to be levied upon all the rateable property of the municipality for any municipal or school purposes, such rates shall hereafter be calculated at so much in the dollar upon the total assessment of the municipality and shall be calculated and levied upon the whole of the assessment for real property, income and business or other assessments made under this Act. New.

Taxable  
property and  
exemptions.

5. All real property in this Province and all income derived either within or out of this Province by any person resident therein, or received in this Province by or on behalf of any person resident out of the same shall be liable to taxation, subject to the following exemptions (g) that is to say :

Interest of the  
Crown in any  
property.

1. The interest of the Crown in any property, including property held by any person in trust for the Crown, or in trust for any tribe or body of Indians. R. S. O., 1897, c. 224, s. 7, par. 1, amended.

Churches, etc.

2. Every place of worship and land used in connection therewith, churchyard or burying ground. (i). R. S. O.,

able income, though, to the extent of ninety per cent. thereof, divisible, pursuant to the terms of the company's special act, as profits among participating policy holders, and not subject to the control or disposition of the company. In re the Canada Life Assurance Company and the City of Hamilton. 25, A. R., 312.

(g) The assessment of property exempt by law from assessment is so far a nullity as to render an appeal to the Court of Revision unnecessary, and the decision of that court or County Judge of no effect. Great Western Ry. v. Rouse, 15 U. C. Q. B. 168; London v. Great Western Ry. Co., 17 U. C. Q. B. 262; Shaw v. Shaw, 21 U. C. Q. B. 432; Shaw v. Shaw, 12 U. C. C. P. 456; Nickel v. Douglas, 37 U. C. Q. B. 51; Brantford v. Ontario Investment Co., 15 A. R. 605.

(i) Previous to the amendment of this sub-section by sub-section 2 of section 1 of chapter 21, 3 Ed. VII. (O) it had been held, in Haynes v. Copeland, 18 U. C. C. P. 150, that a place of public worship was exempt from local rates; but it is now expressly provided that land on which a place of worship is erected and land used in connection with a place of worship shall be liable for local improvements. See Consolidated Municipal Act, 1903, chapter 19, 3 Ed. VII. (O), section 683, which is as follows :

683. Land on which a place of worship is erected, and land used in connection with a place of worship, shall be liable to be assessed in the same way and to the same extent as other land, for local improvements made or

1897, c. 224, s. 7, par. 3. 3 Edw. VII., c. 21, s. 1 (2). See also 3 Edw. VII., c. 19, s. 683.

3. The buildings and grounds of and attached to or otherwise bona fide used in connection with and for the purposes of every university, every college, every high school, public or separate school, or any incorporated seminary of learning, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, but not if otherwise occupied. (j). 3 Edw. VII., c. 21, s. 1, (1), amended.

Public  
educational  
institutions.

to be made. See section 6 as to the assessment of such property for local improvements.

(j) This is a qualified exemption. So long as the buildings and grounds are actually used and occupied by such institution, or if unoccupied, they are exempt, except in so far as they are liable for local rates, but if otherwise occupied they are liable for all taxes. See sec. 684, Consolidated Municipal Act, 1903, chap. 19, 3 Ed. VII. (O), which is as follows :

**684.** *The buildings and grounds of and attached to a university, college or other incorporated seminary of learning, whether vested in a trustee or otherwise, shall be liable to be assessed in the same manner and to the same extent as other land is assessed for local improvements made or to be made. This section shall not apply to schools which are maintained in whole or in part by a legislative grant or a school tax.*

*"Provided that if the grounds of and attached to a school maintained in whole or in part by a Legislative grant or a school tax are not owned by the school board or the municipality, but are held under a lease, agreement, or other right of occupancy, the unexpired term of which does not extend beyond the period of the proposed assessment, the said grounds shall be liable to be and shall be assessed for local improvements and the municipal council shall assume and pay the special rates assessed against the same during the unexpired term of such lease, agreement or right of occupancy or any renewal thereof, or until said lands are no longer used for school purposes, and as soon as said lands cease to be used for school purposes and thereafter during the currency of the debenture issued to pay for said work the said special rates fixed by the by-law providing for the payment of the said work shall be payable by the owner of the said lands, and may be a charge upon the said lands and may be collected in the same manner as the rates imposed by the said by-law.*

(2.) *All land exempt from a local improvement rate imposed by any by-law as soon as it ceases to be used for any purpose that would render the same so exempt, or as soon as it ceases to be the property of any person entitled to exemption, or when the term of such exemption expires, as the case may be, shall thereupon become liable to be rated for the work, improvement or service at the rate fixed by the by-law providing for the payment for such work, improvement, or service, and the same shall be a charge upon the said land, and may be collected in the same manner as the rates imposed by such by-law. Secs. 157 and 158, chap. 18, 3 Ed. VII. (O)*



City and town-  
halls, etc.

Rev. Stat., c  
320.

Public roads,  
etc.

Municipal  
property.

Public parks.

Provincial  
penitentiary etc.

Poor houses,  
etc.

4. Every city or town or township hall, or any hall by by-law of a township council declared to be a public hall, and every court house, gaol, house of correction, lock-up house and public hospital (k) receiving aid under The Charity Aid Act with the land attached thereto respectively. R. S. O., 1897, c. 224, s. 7, par. 5, amended.

5. Every public road or way or public square. (l).

6. The property belonging to any county or municipality, whether occupied for the purposes thereof or unoccupied; but not when occupied by any person as tenant or lessee. R. S. O., 1897, c. 224, s. 7, par. 7, amended.

7. The property belonging to any municipality, and in use as a public park, whether situate within the municipality owning the same or in another municipality or municipalities. (m).

8. The Provincial Penitentiary, the Central Prison and the Provincial Reformatory, and the land attached thereto. R. S. O., 1897, c. 224, s. 7, pars. 8, 9.

9. Every industrial farm, poor-house, alms-house, orphan asylum, and every boys' or girls' or infants' home or other charitable institution conducted on philanthropic principles and not for the purpose of profit or gain, house of industry, house of refuge, and public lunatic asylum, and every house

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(k) The words "public hospital" are not technical; they have acquired by judicial decision no precise legal meaning; they are words of common use, and are to be interpreted as they are commonly understood. See *Struthers v. Town of Sudbury*, 30 O. R. 116; 27 A. R. 217.

The word "public" would appear to be used in a popular and not in a strictly legal sense. See *Wylie v. Montreal*, 12 S. C. R. 384.

It is to be observed, however, that to entitle a public enterprise to exemption under this sub-section, it must be one receiving aid under the provisions of chapter 320, R. S. O., 1897.

(l) Public squares are as much public property as public roads and ways, and cannot, without a breach of trust, be applied to any use inconsistent with the purpose of their dedication. See *Guelph v. Canada Co.*, 4 Grant 632. They are exempt from taxation. See *in re Hamilton and the Township of Biddulph*, 13 U. C. L. J. N. S. 16.

(m) This property is not exempt when occupied by any person as tenant or lessee. Where land is purchased by a municipality at a tax sale it is liable to be assessed in the same way as previous to the purchase by the municipality until after the expiration of the time for redemption. After that it is exempt under this sub-section.

belonging to a company for the reformaton of offenders, and the real property belonging to or connected with the same. R. S. O., 1897, c. 224, s. 7, par. 10, amended.

10. The property of any incorporated society operating in Ontario under chapter 262 of The Revised Statutes of Ontario, intituled An Act to regulate the Immigration into Ontario of certain classes of children, or of any children's aid society incorporated under The Children's Protection Act of Ontario, whether held in the name of such society or in the name of a trustee or otherwise, being only property used exclusively for the purposes of and in connection with such society. 63 V., c. 34, s. 2; 1 Ed. VII, c. 29, s. 1.

Immigration  
Aid Society  
Rev. Stat., c.  
262.

Rev. Stat., c.  
259.

11. The income of any nature or kind whatsoever arising from the surplus funds of any registered Friendly Society. New.

Income from  
surplus funds of  
Friendly  
Societies.

12. The property of every public library, mechanics' institute and other public institution, literary or scientific, and of every agricultural or horticultural society, to the extent of the actual occupation of such property for the purposes of any of such institutions or societies; and the lands and buildings of every company formed under the provisions of The Act Respecting Joint Stock Companies for the Erection of Exhibition Buildings, to the extent to which the council of the municipality in which such lands and buildings are situated consents that such property shall be exempt. (n). R. S. O., 1897, c. 224, s. 7, par. 11, amended.

Scientific or  
literary  
institutions, etc

Rev. Stat., c.  
196.

13. The official income of the Governor-General of the Dominion of Canada, and the official income of the Lieutenant-Governor of this Province. R. S. O., 1897, c. 124, s. 7, par. 12, amended.

Official income  
of Governors.

14. The full or half pay of any officer, non-commissioned officer or private of His Majesty's regular army or navy; and any pension, salary, gratuity or stipend derived by any person from His Majesty's Imperial Treasury, and the income of any person in such naval or military services, on full pay, or otherwise in actual service. (o). 3 Edw VII., c. 21, s. 2, amended.

Income of  
officers, etc., on  
full pay.

(n) Under this section the property of an agricultural or horticultural society is exempt only when actually occupied by such society.

(o) A Provincial Legislature cannot impose a tax on the official income of an officer of the Dominion Government or confer such a power on the municipalities. *Leprohon v. Ottawa*, 2 A. R. 522. Salaries of officers appointed by the Provincial Government are liable to assessment and taxation, subject to the statutory exemption, except such as are exempt by sec. 7 of this Act.

The income of a SUPER-ANNUATED civil servant of the Dominion

Income from  
farms.

15. The income of a farmer derived from his farm. R. S. O., 1897, c. 224, s. 7, par. 17, part.

Machinery.

16. All fixed machinery used for manufacturing or farming purposes; but this shall not apply to fixed machinery used, intended or required for the production or supply of motive power, including gas, electric, and other motors, nor to machinery owned, operated, or used by a railway company or by a person having right, authority or permission to construct, maintain or operate within Ontario in, under, above, on or through any highway, road, street, lane, public place or public water, any structures or other things for the purposes of bridges, tramways or street railways, or for the purpose of conducting steam, heat, water, gas, oil, electricity, or any property, substance or product capable of transportation, transmission or conveyance, for the supply of water, light, heat, power, transportation, or other service. New.

Income from  
stock in  
companies.

17. The dividends or income from stock held by any person in any incorporated company, the income of which is liable to assessment in this Province. R. S. O., 1897, c. 224, s. 7, par. 20, amended.

Toll road  
stock.

18. The dividends or income derived from the stock or shares held by any person in any toll road. R. S. O., 1897, c. 224, s. 7, par. 22, amended.

Income from  
personal  
earnings, etc.

19. The annual income derived from personal earnings or from any pension, gratuity, or retiring allowance in respect of personal services by any person assessable directly in respect of income under this Act to the amount of \$1,000, where such person is resident in a city or town having a population of 10,000 or over, or to the amount of \$700 where such person is resident in any other municipality, provided that such person is a householder in the city, town or other municipality and is assessed as a householder (oo) therein, and the annual income, derived from personal earnings or from any pension, gratuity,

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Government is not exempt from assessment and taxation, and the Provincial Legislature has authority under The British North America Act to impose such an assessment. The doctrine of *Leprohon v. Ottawa* cannot be extended so as to justify the exemption of the income of a retired public officer from the annual tax levied by the municipality where he lives. (*Bucke v. City of London*, not yet reported.)

(oo) A "householder" is thus defined in The American Encyclopædia of Law: "A householder is the head or master of a family; a person who occupies a house and has charge of and provides for a family therein."

or retiring allowance in respect of personal services of every person, not being a householder and assessed as such as aforesaid, to the amount of \$400. (p). New. See 3 Edw. VII., c. 21, s. 3.

20. Rent or other income derived from real estate, except interest on mortgages. R. S. O., 1897, c. 224, s. 7, par. 27.

Rental of real estate, etc.

6. The exemptions provided for by section 5 of this Act shall be subject to the provisions of The Consolidated Municipal Act, 1903, providing for the assessment of property for local improvements, which would otherwise be exempt from such assessment under the said section 5. (q). 3 Edw. VII., c. 21, s. 5, amended

Assessments for local improvements.

7 The exemption to which certain officers connected with the Superior Courts were, at the time of their appointment, and on the 5th day of March, 1880, entitled by statute, in respect of their salaries, is abolished as respects all persons appointed by the Lieutenant-Governor to such offices after the said 5th day of March, 1880, and shall continue in respect of such officers only as were appointed before that date. R. S. O., 1897, c. 224, s. 12.

Exemption of certain officers of superior courts abolished as to future appointments.

8. (1) Where any person is entitled by law to exemption from assessment in respect of income, he may, upon making an affidavit stating the amount of his income and according to the form given in Schedule A to this Act, require his name to be entered upon the assessment roll for such income, for the purpose of being entitled to vote at elections for municipal councils; and upon such affidavit being delivered to the assessor at any time before the day fixed for the return of his roll, it shall be the duty of the assessor to enter the name of such person in the assessment roll; and such income shall in such case be liable to taxation like other assessable income. (r). R. S. O., 1897, c. 224, s. 9, amended.

Assessment of persons for exempted income at request.

(p) Under this sub-section, where a man is assessed as a householder, his income from personal earnings, etc., is absolutely exempt to the amount of \$1,000 if he is a resident of a city of 10,000 inhabitants or over, and in other municipalities to the amount of \$700. If he is not a householder and assessed as such, his income derived from personal earnings, etc., is exempt only to the extent of \$400.

(q) See section 664 and following sections of The Consolidated Municipal Act, 1903.

(r) This section entitles a person to waive his right to exemption in respect to income, and to require the assessor to enter his name upon the

(2) Such affidavit may be made before the assessor or as provided in section 222 of this Act. New.

Transfer of property theretofore exempt to a person not entitled to exemption.

9. (1) Whenever a transfer is made of any property theretofore exempt from taxation under section 5 of this Act to some person not thereafter entitled to such exemption, or whenever property used for some purpose which would entitle it to exemption under the said section ceases to be so used, or whenever the period for which any property is declared to be exempt from taxation under any statute or by-law expires, such property shall immediately be liable to taxation for so much of the taxes as such property would have been liable for after such transfer, if it had not been exempt; and the taxes levied and collected in respect thereof shall form part of the general taxes of the municipality.

General taxes.

(2) If the assessment for such municipality or the ward or part thereof where such property is situated has been completed before such transfer, or so far completed that the same cannot be assessed in the usual manner, then the assessor or assessment commissioner of the municipality shall assess the said property as though the assessment rolls were not completed and the person assessed therefor shall have the right to appeal against such assessment within four days after receiving notice thereof; and, if he appeals therefrom, all the provisions of this Act as to appeal to or from the Court of Revision shall apply thereto; and thereafter such owner and occupant shall be liable for the taxes thereon at the rate fixed for such year as though the name of the owner and the description of the property and the value thereof and other particulars were inserted in the usual way.

Remedies for collection.

(3) All remedies for collecting such taxes shall be applicable to such owner and property.

Not to apply after rate of taxation for year fixed.

(4) These provisions shall not apply to enable any taxes for the current year to be collected upon any property transferred after the by-law fixing the rate of taxation for such year has been passed. 3 Edw. VII., c. 21, s. 4.

Business assessment.

10. (1) Irrespective of any assessment of land under this Act, every person occupying or using land in the municipality for the purpose of any business mentioned or described in this

assessment roll, and upon receipt of the affidavit mentioned in this section it becomes the duty of the assessor to enter the name of such person upon the assessment roll.

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section shall be assessed for a sum to be called "Business Assessment," to be computed by reference to the assessed value of the land so occupied or used by him, as follows :

- (a) Every person carrying on the business of a distiller for a sum equal to 150 per cent. of the said assessed value.
- (b) Every person carrying on the business of a brewer for a sum equal to 75 per cent. of the said assessed value of the land occupied or used by him for such business exclusive of any portion of such land occupied and used by him as a malting house and for a sum equal to 60 per cent. of the assessed value as to such last mentioned portion.
- (c) Every person carrying on the business of a wholesale merchant, of an insurance company, a loan company or a trust company, as defined by this Act, or of an express company carrying on business on or in connection with a railway or steamboats or sailing or other vessels where such land is occupied or used mainly for the purpose of its business, or of a land company, or of a bank or a banker, or of any other financial business for a sum equal to 75 per cent. of the said assessed value.
- (d) Every person carrying on the business of a manufacturer for a sum equal to 60 per cent. of the said assessed value; and a manufacturer shall not be liable to business assessment as a wholesale merchant by reason of his carrying on the business of selling by wholesale the goods of his own manufacture on such premises.
- (e) Every person carrying on the business of what is known as a departmental store or of a retail merchant dealing in more than five branches of retail trade or business in the same premises or in separate departments of premises under one roof, or in connected premises, where the assessed value of the premises exceeds \$20,000, or of a coal or wood or lumber dealer, lithographer, printer or publisher, or of a club in which meals or spirituous or fermented liquors are sold or furnished or the business of selling, bartering, or trafficking in fermented, spirituous or other liquors in any premises in respect

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of which a shop license has been granted, for a sum equal to 50 per cent. of the said assessed value ; but in cities having over 100,000 population coal dealers shall be assessed for a sum equal to 30 per cent. of the said assessed value.

- (f) Every person practicing or carrying on business as a barrister, solicitor, notary public, conveyancer, physician, surgeon, oculist, aurist, medical electrician, dentist, veterinarian, civil or mining or consulting or mechanical or electrical engineer, surveyor or architect and, subject to sub-section 5 of this section, every person carrying on a financial or commercial business as agent only, for a sum equal to 50 per cent. of the said assessed value. Provided that where a person belonging to any class mentioned in this clause occupies or uses land partly for the purposes of his business and partly as a residence 50 per cent. of the assessed value of the land occupied or used by him shall for the purpose of the business assessment be taken as and construed to be the full assessed value of the land so occupied or used.
- (g) Every person carrying on the business of a retail merchant in cities having a population of over 50,000 for a sum equal to 25 per cent. of the said assessed value ; in other cities and towns having a population of 10,000 or over for a sum equal to 30 per cent. of the said assessed value ; and in all other municipalities for a sum equal to 35 per cent. of the said assessed value.
- (h) Every person carrying on the business of a photographer, or of a theatre, concert hall, or skating rink, or other place of amusement, or of a boarding stable, or a livery, or the letting of vehicles or other property for hire, or of a restaurant, eating house, or other house of public entertainment, or a hotel in respect of which a tavern license has been granted or any trade or commercial business not before in this section or in clause (i) specially mentioned, for a sum equal to 25 per cent. of the said assessed value.
- (i) Every person carrying on the business of a telegraph or telephone company, or of an electric railway,

tramway or street railway, or of the transmission of oil or water, or of steam, heat, gas or electricity for the purposes of light, heat or power, for a sum equal to 25 per cent. of the assessed value of the land (not being a highway, road, street, lane, or public place or water or private right of way), occupied or used by such person, exclusive of the value of any machinery, plant, or appliances erected or placed upon, in, over, under or affixed to such land. (s)

(2) No person shall be assessed in respect of the same premises under more than one of the clauses of sub-section 1, and where any person carries on more than one of the kinds of business mentioned in that sub-section on the same premises, he shall be assessed by reference to the assessed value of the whole of the premises under that one of the said clauses in which is included the kind of business which is the chief or preponderating business of those so carried on by him in or upon such premises.

Persons carrying on more than one class of business.

(3) Where the amount of the assessment of any person assessable under this section would, under the foregoing provisions, be less than \$250, he shall be assessed for the sum of \$250.

Minimum assessment

(s) The decisions of the County Judges on appeals against assessments under this clause vary. For instance, in the Mitchell case His Honor Judge Burton held that these companies were not assessable for a business assessment, while His Honor Judge Dowling, in the Tharstonville, Bothwell, Dresden and Ridgetown cases, delivered judgment to the contrary. These cases are reported on page 251 of THE WORKER, 1905 (September issue). We are of opinion that Judge Dowling's construction of the Act is correct. Clause (i) of sub-section 1 of section 10 of The Assessment Act, 1904, regulates the matter. If a telegraph company uses and occupies any premises in a municipality for the purpose of carrying on its business, either through an agent (as is usually the case) or otherwise, it is liable to the business assessment mentioned in this clause calculated on the assessed value of the premises it so uses and occupies, and a company of this kind cannot by any possibility carry on its business without using and occupying some premises for the purpose. Sub-section 2 of section 10 of the Act applies only where the same person carries on, in the same premises, more than one of the businesses mentioned in sub-section 1. Where separate businesses are being carried on in the same premises by, for example, say a bookseller and stationer on the one hand, and the telegraph companies, through the bookseller as their agent, on the other, each of them is liable to a business assessment under clauses (g) and (e) respectively of this sub-section. It would be different if the occupant of the premises personally carried on the business of a bookseller, etc., and also that of a conveyancer, for example. We might also call attention to the special provision as to express companies contained in clause (c) of this sub-section.



Where land used partly for business and partly for residence.

(4) Where any person mentioned in sub-section 1 occupies or uses land partly for the purpose of his business and partly for the purpose of a residence, he shall be assessed in respect of the part occupied for the purpose of his business only ; but this provision shall not apply to persons assessed under clause (f) of sub-section 1.

Certain businesses not included.

(5) A financial or commercial business, in sub-section 1 mentioned, shall not include a business carried on by operating vessel property of the following description, namely, steam-boats, sailing or other vessels, tow barges or tugs ; nor the business of a steam railway ; nor the business of a broker or financial agent, or of a manufacturer's agent, or other agent or intermediary in the business of the sale of goods who has not the actual custody of the goods, or has the custody of samples only.

Farmers, market-gardeners, and nurserymen.

(6) No person occupying or using land as a farm, market garden or nursery shall be liable to business assessment in respect of such land.

Income from business not assessable.

(7) Except as provided in clause (c) of sub-section 1 of section 11 of this Act every person liable to assessment in respect of a business under sub-section 1 shall not be subject to assessment in respect of income derived from such business, nor shall any person be subject to assessment in respect of dividends derived by him from shares in the stock of a corporation carrying on a mercantile or manufacturing business and which corporation is subject to assessment under sub-section 1 ; nor shall the premiums or assessments of an insurance company be assessable by any municipality.

Tax not a charge on land.

(8). Every person assessed for business assessment shall be liable for the payment of the tax thereon and the same shall not constitute a charge upon the land occupied or used. New.

#### TAXATION ON INCOME DIRECTLY.

Taxable income

11. (1) Subject to the exemption provided for in sections 5 and 10 of this Act the following persons shall be assessed and taxed in respect of income :

- (a) Every person not liable to business assessment under section 10, and
- (b) Every person, although liable to business assessment under section 10, shall also be liable in respect of any income not derived from the business in respect of which he is assessable under that section.

(c) Every person liable to business assessment under clause (f) of sub-section 1 of section 10 in respect of the income derived by him from his business profession or calling, to the extent to which such income exceeds the amount of such business assessment. New.

(2) Where such income is not a salary or other fixed amount capable of being estimated for the current year, the income of such person for the purposes of assessment shall be taken to be not less than the amount of his income during the year ending on the 31st day of December then last past. (t). New. See R. S. O., 1897, c. 224, s. 35.

12. (1) Every person assessable in respect of income under section 11 shall be so assessed in the municipality in which he resides but may be so assessed in such municipality either at his place of residence or at his office or place of business. (u). New. See R. S. O., 1897, c. 224, s. 42.

Place of  
assessment for  
income.

(t) The tax imposed by 31 Vic., c. 36, section 4 (N. B.) upon "income" is leviable in respect of the balance of gain over loss made in the fiscal year, and when no such balance of gain has been made there is no income or fund which is capable of being assessed. There is nothing in the said section or in the context which should induce a construction of the word "income" when applied to the income of a commercial business for a year, otherwise than in its natural and commonly accepted sense as a balance of gain over loss. *Lawless v. Sullivan*, 6 App. Cases 373, reversing judgment of Supreme Court. 3 S. C. R. 117.

(u) Section 22 (1) makes it the duty of assessors to set down the names and surnames in full, if the same can be ascertained, of all taxable persons resident in the municipality who have taxable property therein, or in the district for which the assessor has been appointed who are taxable therein. This section provides for the assessment being made at a person's place of residence, office or business. If a person has neither an office nor place of business nor is resident within the municipality, he cannot be legally placed on the roll. *Cartwright v. Kingston*, 6 U. C. L. J. 189. Where the lessees of a road running through the Village of St. Thomas lived in the Township of Yarmouth, it was held that they could not be assessed in St. Thomas for their interest in the road. In *re Hephurn v. Johnston*, 7 U. C. L. J. 47 *Hughes Co. J.* And where the appellant, though in the Village of St. Thomas at the time of the assessment, was only temporarily there for the purpose of winding up the business of an agency of the Bank of Montreal, at that place, it was held that he could not be taxed on his income in St. Thomas. In *re Ashworth*, 7 U. C. L. J. 47, *Hughes Co. J.*, and where a resident of Vienna had taken a house at Ingersoll, in another municipality, whither the greater part of his household effects had been moved and most of his family resided at the time of the assessment, although he temporarily remained and slept in his former domicile during the night, it was also held that he could not be legally assessed in Vienna. *Marr v. Vienna*, 10 U. C. L. J. 275, *Hughes Co. J.*

Partnerships.

(2) The income of a partnership, or of an incorporated company, if assessable, shall be assessed against the partners at their chief place of business, and against the company at its head office, or if the company has no head office in Ontario, at its chief place of business in the municipality. (v). New. See R. S. O., 1897, c. 224, ss. 39, 40.

Income in control of agent, etc., of non-resident, assessable against agent.

13. (1) Every agent, trustee, or person who collects or receives, or is in any way in the possession or control of income for, or on behalf of a person who is resident out of the Province, shall be assessed in respect of such income. (w).

(v) See *Kingston v. the Canada Life Assurance Company*, 19 O. R. 453. The defendants were a Life Insurance Company, with their head office at Hamilton, in this Province, and transacted business by agents in Kingston, who received applications for insurance which they forwarded to the head office, from which all policies issued ready for delivery, the premiums on the same also being collected by the agents in Kingston. In an action by the corporation of the City of Kingston to recover taxes assessed against the defendants on income it was contended that the defendants' only place of business was in Hamilton, and that their business was of such a nature that they could not be assessed at Kingston, and that they had elected under R. S. O., 1887, chapter 193, section 35, sub-section 2, to be assessed at Hamilton on their whole income. Held, reversing the opinion of Ferguson, J., 18 O. R. 18, that the agency at Kingston was not a branch business within the meaning of section 35 above referred to, and that the premiums received year by year at Kingston were not assessable there. Where a joint stock company owns property in a municipality, the property is to be assessed to the company itself, and not to the shareholders in their individual capacity.

(w) *Phoenix Insurance Company v. Kingston*, 7 O. R. 343. The plaintiff company was a foreign corporation with the head office in England, but carrying on insurance business in Canada with an agency office at Kingston, Ontario, and the head office for Canada at Montreal. Held, that insurance premiums received at Kingston by the agent of the company there for insurance business transacted through him as such agent were assessable at Kingston as taxable income or personal property against the said company and its said agent, although the agent paid taxes on his own income, which was partly derived from commission on the premiums received, and the fact that the premiums having been previously sent by the agent, after collection, to the head office in Montreal were not in the municipality of Kingston when the assessment was made, did not make any difference, following in re *North of Scotland Canadian Mortgage Company*, 31 U. C. C. P. 552, in which it was held that the income or profit from investment upon mortgage and other securities of the company in Ontario, though transmitted to its head office at Aberdeen, were assessable here.

Under this section personal property of a person not resident within the Province is assessable against the agent, trustee, or other person having control or possession of it, as if such agent, trustee, or other person were the owner of it.

See also notes to section 12.

Trustees, guardians, executors, or administrators, though described on

(2) Every person assessed under this section shall be so assessed at his place of business, if any, or if he has no place of business, at his residence. New. See R. S. O., 1897. c. 224, ss. 11, 38, 44, 46; 63 Vic., c. 34, s. 4.

#### TELEGRAPH AND TELEPHONE COMPANIES.

14. (1) Every telephone company carrying on business in a city, town, village, or police village, shall in addition to any other assessment to which it may be liable under this Act, be assessed for 60 per cent. of the amount of the gross receipts belonging to the company in the city, town, village, or police village, from the business of the company for the year ending on the 31st day of December next preceding the assessment. Provided that in cities having a population of over 100,000 inhabitants such company shall be assessed for 75 per cent. of such gross receipts.

Assessment of telephone companies on income in cities, towns, villages, and police villages.

(2) Every telephone company shall be assessed in every township for one ground circuit (being a single wire for carrying a message) or a metallic circuit (being two wires for carrying a message), as the case may be, placed or strung on the poles or other structures operated or used by the company in the township and in use on the 31st day of December next preceding the assessment at the rate of \$1.35 per mile and in case any line of poles or other structures carries more than one ground circuit or metallic circuit at the rate of \$7.50 per mile for each additional ground circuit or metallic circuit, as the case may be, placed or strung on the 31st day of December next preceding the assessment.

Assessment of telephone companies on mileage in townships.

(3) In the computation of the length of said telephone wires and additional wires for assessment in a township as aforesaid, the wires placed or strung within the area of any police village, and the wires of all branch and party lines, which do not exceed 25 miles in length, shall not be included.

Wires in police villages and branch lines included.

the roll in their representative character, are personally liable for the payment of the taxes. See *Dennison v. Henry*, 17 U. C. Q. B. 276.

"As regards personal property (which, under the provisions of the former Assessment Act, R. S. O., 1897, chap. 224, included "income") of a visible and tangible nature, such as cattle and chattels in the popular sense of the term, and which are capable therefore of an actual situs, and differing only from land in the fact that the one is immovable, the other movable from one place to another, there is very little difficulty. Both are equally protected by the laws of the country where they are situated, and both are justly chargeable with a proportion of the local burdens of the place in which they happen to be, according to all just principles of taxation." Per *Burton, J.*, in *Nickle v. Douglas*, 37 U. C. Q. B. 60.

Telegraph companies assessment on income in cities, towns, villages, and police villages.

(4) Every telegraph company carrying on business in a city, town, village, or police village, shall in addition to any other assessment to which it may be liable under this Act be assessed for 50 per cent. of the amount of the gross receipts belonging to the company in such city, town, village or police village from the business of the company for the year ending on the 31st day of December next preceding the assessment.

Assessment on mileage in townships.

(5) In every township there shall be assessed against every such telegraph company a sum equal to \$40 for every mile of the length of one wire placed or strung on the poles or other structures operated or used by the company in the township and in use on the 31st day of December next preceding the assessment and a sum equal to \$5 per mile for each additional wire so placed or strung on the 31st day of December next preceding the assessment.

Wires in police villages, and branch and loop lines excluded

(6) In the computation of the length of said telegraph wires and additional wires for assessment in a township as aforesaid the wires placed or strung within the area of any police village and the wires of all branch and loop lines which do not exceed twenty-five miles in length shall not be included.

What to be measured as separate wires.

(7) In the measurement of such additional wires, the length of every telegraph wire and of every telephone wire forming a ground circuit or pair of telephone wires forming a metallic circuit, as the case may be, placed or strung in cables or other combinations, and used, or capable of being used, as an independent means of conveying messages shall be computed.

Exemption from other assessments.

(8) Every company assessed as provided in this section shall, in townships, be exempt from assessment in any other manner or on any other property for municipal purposes, and shall, in cities, towns, villages and police villages be exempt from assessment in respect of all plant, appliances and machinery wherever situated and in respect of all structures placed on, over, under, or affixed to any highway, road, street, lane, or public place or water.

Poles and wires on township boundaries.

(9) Where the poles or wires of a telegraph or telephone company are placed on the boundary line between two townships or so near thereto that the poles or wires are in some places on one side and in other places on the other side of the boundary line or are placed on a road which lies between two townships, although it may deviate so as in some places to be wholly or partly within either of them, the company shall be

assessed in each township for one-half of the amount assessable against it under sub-section 2 or sub-section 5, as the case may be, in both the townships taken together.

(10) The taxes payable by a company in any municipality under this section shall be a lien on all the lands of the company in the municipality. New.

Tax to be a lien on lands of company.

15. (1) Every telegraph and telephone company doing business in Ontario shall on or before the 1st day of February in each year,

Returns by telegraph and telephone companies.

1. Deliver to the Provincial Secretary a statement in writing shewing :

- (a) The gross receipts of the company in the Province and the gross receipts of the company in each city, town, village and police village in the Province, from its business for the year ending on the 31st day of December then last past ;
- (b) The length of miles of one wire or of a pair of wires forming a metallic circuit placed or strung on all the poles or other structures operated or used by the company in each township in Ontario.
- (c) The number of miles in length of one wire or of one pair of wires, as the case may be, forming a metallic circuit operated or used by the company in each township in Ontario, including in the measurement the length in each township of every wire or pair of wires, as the case may be, placed or strung in cables or other combinations, and used, or capable of being used, as an independent means of conveying messages.

2. Deliver or mail to the assessment commissioner, or if there be no assessment commissioner, to the clerk of every city, town and village, and to the clerk of the township in the case of a police village in which the company does business, a statement in writing of the amount of the gross receipts of the company in such city, town, village or police village for the year ending on the 31st day of December then last past.

(2) Every such statement shall be signed by or on behalf of the company and shall be verified in the same manner as assessment returns are required by section 19 to be verified. New.

ASSESSMENT RETURNS BY TAXPAYERS

Information to  
assessors  
generally

16. It shall be the duty of every person assessable in any municipality to give all necessary information to the assessors, it required by them, for the purposes of enabling the assessors to properly assess him. New. See R. S. O., 1897, c. 224, s. 47.

Information by  
employers as to  
employees.

17. It shall be the duty of every person employing any other person in his trade, manufacture, business or calling within 10 days after demand therefor to furnish or cause to be furnished to the assessors information concerning the names, places of residence, and wages, salary or other remuneration of all persons employed by him whose wages, salary or other remuneration exceed \$1,000 per annum in cities and towns having a population of 10,000 or over and \$700 in other municipalities in the case of householders and in all municipalities \$400 in the case of non-householders. New.

Requisitions by  
assessor for  
information.

18. (1) Any assessor requiring information from any person pursuant to section 16, shall cause to be delivered or mailed to the address of such person a notice according to the form given in Schedule E to this Act. accompanied by such blank form of the assessment return to be made by such person as may be necessary; and such person shall within ten days thereafter, enter in the said forms all the particulars required by the notice to be given, in the proper blanks and columns, and deliver or mail such assessment return to the assessor.

(2) Before delivering or mailing the said assessment return to the assessor the same shall be signed by or on behalf of such person, and shall be verified by a statutory declaration in writing attached thereto.

(3) Such declaration may be made before the assessor or as provided in section 222. New.

Return by  
Corporation to  
Provincial  
Board.

19. (1) Every corporation whose dividends are liable to taxation against the shareholders as income, upon the receipt of a notice from the assessor or assessment commissioner (such notice to be given by delivering or mailing the same by registered letter prepaid to the principal officer of the corporation in this Province, or to the manager, cashier or other chief officer of any branch or agency of such corporation in any municipality in the Province, or by leaving the same at such principal office or the office of such manager, cashier, or other chief officer), shall within thirty days after the delivering, mailing or leaving

of such notice, deliver or mail to the assessor or assessment commissioner a statement in writing, setting forth the names of shareholders who are resident in the municipality or who ought to be assessed for their income by the municipality, the amount of stock held by every such shareholder on the day named for that purpose by the assessor or assessment commissioner in his said written notice, and the amount of dividends and bonuses declared during the twelve months next preceding. (x). R. S. O., 1897, c. 224, s. 48, amended.

(2) Every such statement shall be verified by a statutory declaration in writing attached thereto, made by some officer of the corporation having a knowledge of the facts. New.

(3) Such declaration may be according to the form given in Schedule E to this Act, with such variations as may be necessary. New.

20. (1) The assessor shall not be bound by any statement delivered under the next four preceding sections, nor shall the same excuse him from making due inquiry to ascertain its correctness; and, notwithstanding any such statement, the assessor may assess every person for such amount as he believes to be just and correct, and may omit his name or any property which he claims to own or occupy, if the assessor has reason to believe that he is not entitled to be placed on the roll or to be assessed for such property. (y). R. S. O., 1897, c. 224, s. 49, amended.

Assessor not bound by returns.

(2) Except when examined as a witness before any court, no assessor, assessment commissioner, assistant or other person employed by the municipality shall communicate or allow to be communicated to any person except to the solicitor of the municipality in the discharge of his duty any information

Information to be confidential.

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(x) This section makes it the duty of every corporation whose dividends are liable to taxation as against its shareholders, to deliver to the assessor at his written request within thirty days, a statement in writing, setting forth: *First*, the names of the shareholders who are resident in the municipality, or who ought to be assessed for their income by such municipality; *second*, the amount of stock held by every such person on the day named for that purpose by the assessor; *third*, the amount of dividends and bonuses declared during the twelve months next preceding.

(y) It is just as much the duty of the assessor to see that no person is assessed who ought not to be assessed, and that no person is assessed for a higher amount than his property entitles him to, as it is to see that every person assessable is assessed for the full amount chargeable against him according to the standard of valuation laid down by the Act.



obtained under the provisions of sections 16 to 19 inclusive, or allow any person to inspect or have access to any written statement furnished under the provisions of sections 18 or 19, and no person other than the assessor or assessment commissioner and their assistants shall be entitled to any information respecting the assessment of any person other than as provided in section 47. New.

Penalty

(3) Any person who contravenes sub-section 2 of this section shall upon conviction thereof before a court of competent jurisdiction be liable to a fine not exceeding \$200, and to imprisonment until the fine is paid, in the common gaol of the county or city, for a period not exceeding six months, or to both such fine and imprisonment in the discretion of the court. New.

Penalty for neglect to give information

21. (1) Any person who, having been duly required to deliver or furnish any written statement or information mentioned in the next preceding five sections, makes default in delivering or furnishing the same and any company which makes default in delivering the statement in writing in section 15 mentioned, shall incur a penalty of \$100, and an additional penalty of \$10 for each day during which default continues.

For making false statements

(2) Any person knowingly stating anything falsely in any such statement or in furnishing such information shall incur a penalty of \$200. (z).

Recovery of penalties.

(3) The penalties imposed by this section may be recovered on summary conviction before any Justice of the Peace having jurisdiction within the municipality in which is the address of the assessor or other person to whom the statement is required to be delivered or mailed, and shall be paid over to the municipality. New. See R. S. O., 1897, c. 224, s. 50.

#### APPOINTMENT OF ASSESSORS

The Consolidated Municipal Act, 1903, ss. 295 and 296

Assessors and collectors, appointment of.

295. (1) The council of every city, town, township, and village, shall, as soon as may be convenient after the annual

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(z) Any person who : *First*, fails to deliver to the assessor the written statement mentioned in sections 16, 17, 18, 19 and 20 when required so to do ; or, *second*, knowingly states anything falsely in such written statement, is liable to a penalty of \$100 and \$10 for each day during which default continues under sub-section 1 of section 21, and \$200 under sub-section 2 of section 21.

election, appoint as many assessors (a) and collectors for the municipality as they may think necessary, and shall fill up any vacancy that occurs in the said offices as soon as may be convenient after the same occurs; but the council shall not appoint as assessor or collector a member of the council or the clerk or treasurer of the municipality.

(2) No person convicted of treason, felony, or any infamous crime (unless he has obtained a free pardon or served the term of imprisonment or paid the penalty imposed under the sentence) and no person under outlawry, shall be qualified to act as assessor or collector.

Person convicted of treason, etc., disqualified.

(3) The council may assign to such assessors and collectors the assessment district or districts within which they are to act, and may prescribe regulations for governing them in the performance of their duties. (b).

Regulations of councils as to duties of.

(4) The same person may, in a city, town, or township, be appointed assessor or collector for more than one ward or polling sub-division.

Same person may act in more than one ward or polling subdivision.

(5) In municipalities which have passed by-laws requiring taxes to be paid on or before the 14th day of December, it shall be the duty of the collectors, on the 15th day of December

Returns by collector of persons in default.

(a) Before entering on his duties the assessor is required to make a declaration of office before some court, judge, police magistrate, or other justice of the peace; *Consolidated Municipal Act, 1903*, sec. 312, chap. 19, 3 Ed. VII. (O). For form of declaration see said section 312. An assessor is disqualified from being a member of the council; *Ib.* sec. 295 (1). The council is required to appoint the requisite number of assessors as soon as convenient after the annual election. *Ib.* In cities and towns, an assessment commissioner may be appointed instead of an assessor. An assessor need not of necessity be a ratepayer of the municipality for which he is appointed assessor. It is not necessary that a person appointed assessor by a municipality should have any property qualification. In cities, assessors need not be appointed annually, but shall hold office during the pleasure of the council; *Ib.* sec. 296. Assessors are required to make a declaration of office within twenty days after knowledge of appointment under a penalty of from \$8 to \$80; *Ib.* sec. 319. Assessors, with respect to executions, are deemed officers of the court out of which the writ is issued, and amenable to the court, and may be proceeded against by attachment, mandamus or otherwise, in order to compel them to perform the duties imposed upon them; *Ib.* 471 (2).

(b) Though this section gives the council the right to prescribe regulations for governing assessors in the performance of their duties, such regulations cannot override the positive duties imposed upon them by statute. An assessor must observe the duties imposed upon him by the Act, or run the risk of subjecting himself to the penalties imposed by the Act. See section 249 *et seq.*

in each year, to return, upon oath, to the treasurer the names of all persons who have not paid their municipal taxes on or before the 14th day of the said month of December. Con. Mun. Act, 1903, s. 295.

In cities and towns assessment commissioner may be appointed instead of assessors, etc.

**296.** (1) In cities and towns, the council, instead of appointing assessors under the preceding section, may appoint an assessment commissioner, who, in conjunction with the mayor for the time being, shall, from time to time, appoint such assessors and valuers as may be necessary, and such commissioner, assessors and valuers shall constitute a board of assessors, and shall possess all the powers and perform the duties of assessors appointed under the last preceding section.

Number of collectors.

(2) The council shall also have power, by by-law, to determine the number of collectors to be appointed, and to prescribe their duties.

Tenure of office of commissioner assessors, etc.

(3) Any commissioner, assessor, or collector appointed in any city need not be appointed annually, but shall hold office at the pleasure of the council.

Notices.

(4) All notices (in other municipalities required to be given to the clerk of the municipality in matters relative to assessment) shall in such city be given to the assessment commissioner. Con. Mun. Act, 1903, s. 296.

Rev. Stat., c. 30

*(As to delivery by registrars to assessment commissioners in cities on request of duplicate plans or maps of every survey or subdivision of lands therein, and the furnishing of lists of absolute conveyances, see R. S. O., chap. 136, secs. 112 and 125.)*

#### PREPARATION OF THE ASSESSMENT ROLL.

Assessment rolls, form, and contents.

**22.** (1) Every assessor shall prepare an assessment roll in which, after diligent inquiry, he shall set down according to the best information to be had (c) the particulars hereinafter mentioned, and in doing so he shall observe the following provisions :

Names of persons assessed.

(a) He shall set down the names and surnames, in full if the same can be ascertained, of all persons,

(c) An assessor is not bound to inquire into the trusts upon which lands are held, but to view each man's premises and to find out whether or not he is assessable or whether or not he comes under any of the exemptions allowed by law. *Franchon v. St. Thomas, Hughes Co. J., 7 U. C. L. J. 245.* There is nothing in the law as it at presents stands authorizing a council to have an assessment of its municipality to be made otherwise than annually.

whether they are or are not resident in the municipality, ward, or district for which the assessor has been appointed, who are taxable therein.

- (b) He shall set down the amounts assessable against each person opposite his name in the proper columns for that purpose. R. S. O., 1897, c. 224, s. 13 (1), amended. Amount assessed against them
- (c) Land known to be sub-divided shall be designated in the roll by the numbers or other designation of the sub-divisions, with reference where necessary to the plan or survey thereof; land not sub-divided into lots shall be designated by its boundaries or other intelligible description. Subdivisions to be designated
- (d) Each sub-division shall be assessed separately, and every parcel of land (whether a whole sub-division or a portion thereof, or the whole or a portion of any building thereon) in the separate occupation of any person, shall be separately assessed. New. See R. S. O., 1897, c. 224, s. 34. Each lot to be assessed.
- (e) Subject to the provisions of sub-section 5 of this section, where land is assessed against both owner and tenant, both names shall be placed on the roll and shall be bracketed opposite the land, and both names shall be numbered on the roll. (d) R. S. O. 1897, c. 224, s. 24 (1), amended. Assessment of both owner and tenant.
- (f) No assessment shall be made against the name of any deceased person, but when the assessor is unable to ascertain the names of the persons who should be assessed in lieu of the deceased person, he may insert, instead of such names, the words "Representatives of A. B. deceased" (giving the name of such deceased person). R. S. O., 1897, c. 224, s. 13 (2), amended. Deceased persons

(d) By this clause and sub-section 2 under the heading "Column 4," the assessor is required to write opposite the name of the owner the letter "F," and opposite the name of the occupant or tenant the letter "T," and both names shall be numbered on the roll. Assessors cannot be too careful in the observance of the plain duties pointed out by the statute. Where assessors or officers of municipalities omit to follow the plain directions in acts of parliament and any loss thereby arises to the municipality, it would seem that the party causing such loss would be answerable therefor to the municipality. *Christie v. Johnston*, 12 Grant 534.

Non-residents.

- (g) In assessing lands of non-residents in municipalities to which sub-section b of section 33 is applicable, the assessor shall enter such lands at the end of the ordinary assessment roll, separated from the other assessments and placed under the heading "Land of Non-Residents," and shall fill in as far as is possible under such heading with regard to such lands, the particulars mentioned in columns 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 23 of the roll. New. See R. S. O., 1897, c. 224, s. 34.

Inquiry as to births and deaths.

- (2) The assessor, when making the annual assessment, shall enquire of every resident taxable person whether there have been any births or deaths in the family within the previous twelve months, ending on the 31st day of December then last past, and the respective dates thereof, and shall enter the number and respective dates of the same opposite the name of the person assessed, in the column headed "Birth" or "Death" as the case may be. R. S. O., 1897, c. 224, s. 13 (3), amended

Further particulars.

- (3) The assessor shall set down the particulars in separate columns as follows :

Column 1.—The successive number on the roll.

Column 2.—Name (surname first) and post office address of taxable persons (including both the owner and tenant in regard to each parcel of land, and persons otherwise taxable) or person entitled to be entered on the roll as a farmer's son.

Column 3.—The age of the taxable person.

Rev. Stat., c. 8.

Rev. Stat., c. 9.

3 Edw. VII. c. 19, s. 86.

Column 4.—Statement whether the person is a freeholder or tenant, by inserting opposite his name the letter "F" or "T," as the case may be; and where, in any municipality in which The Manhood Suffrage Registration Act is not in force, the person is entitled to be entered upon the roll as qualified to vote under The Ontario Election Act, and where in any municipality in which the first mentioned Act is in force the person is qualified to vote at municipal elections therein as well as at elections for the Legislative Assembly. There shall also be inserted opposite his name in said column, in capitals, the letters "M. F.," meaning thereby "Manhood Franchise," and where the person is, within the meaning of section 86 of The Consolidated Municipal Act, 1903, a "farmer's son," there

shall also be similarly inserted the letters "F. S."; and all such names shall be numbered on the roll. (e).

*(For enactment prohibiting the assessor, in municipalities where The Manhood Suffrage Registration Act is in force, from placing on the roll the name of any person not liable to assessment for taxes, see R. S. O., 1897, chap. 8, sec. 2.)*

Column 5.—Occupation, and in the case of females, a statement whether the person is a spinster, married woman, or widow, by inserting opposite the name of the person the letter "S.," "M.," or "W.," as the case may be, and in the case of any non-resident owner the letters "N. R." See as to trustees, etc., sec. 32 (12).

Column 6.—Number of concession, name of street, or other designation of the local division in which the real property lies; residence, in the case of manhood suffrage voters and other persons not assessed for land.

Column 7.—Number of lot, house, etc., in such division. (See also sub-section 4.)

Column 8.—Number of acres, or other measure showing the extent of the property.

Column 9.—Number of acres cleared (or in cities, towns, or villages, whether vacant or built upon), including, as cleared land, all land cleared of trees, arable or otherwise fit for cultivation, or suitable for pasture.

Column 10.—Number of acres of woodland.

Column 11.—Number of acres of slash land.

Column 12.—Number of acres of swamp, marsh or waste land.

Column 13.—Actual value of the parcel of real property, exclusive of the buildings thereon.

Column 14.—Value of buildings.

Column 15.—Total actual value of the parcel of real property.

Column 16.—Total amount of taxable real property

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(e) See sub-section 7 of section 46.

Column 17.—Total value of the parcel if liable for school rates only.

Column 18.—Total value of property exempt from taxation or liable for local improvements only.

Column 19.—Business assessment under section 10.

Column 20.—Amount of income taxable under sections 11 to 13.

Column 21.—Total assessment.

Column 22.—Religion.

Column 23.—School section, and whether a public or separate school supporter by inserting the letters "p" or "s," as the case may be.

Column 24.—Number of children between the age of 5 and 21. See 1 Edw. VII., c. 39, s. 12 (3).

Column 25.—Number of children between the ages of 5 and 16. See 1 Edw. VII., c. 39, s. 12 (3).

Column 26.—Number of persons in the family of each person assessed as a resident, including such person and all other persons residing on the premises.

Column 27.—Statute labor (stating the number of male persons from twenty-one to sixty years of age and the number of days labor.) (f).

Column 28.—Births.

Column 29.—Deaths.

Column 30.—Dog tax—number of dogs and number of bitches.

Column 31.—Date of delivery of notice under section 46.

Column 32.—Remarks, R. S. O., 1897, c. 224, s. 13 (4), amended.

When residence  
of person  
assessed to be  
entered.

(4) Opposite the name of every person entitled to be entered on the assessment roll but not assessed for land, the assessor

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(f) An assessor is not bound to insert in his roll the number of the road division in which each ratepayer's land is located unless he is specially required to do so by the council on his appointment. Generally speaking, this is the duty of the clerk.

shall in columns 6 and 7 mentioned in sub-section 3 of this section enter :

- (a) In the assessment roll of a city, town or village, the residence of such person by the number thereof (if any) and the street or locality whereon or where-in the same is situate ;
- (b) In the assessment roll of a township the concession wherein and the lot or part of a lot whereon such person resides,

and in all cases any additional description as to locality or otherwise, which may be reasonably necessary to enable such residence to be ascertained and verified. R. S. O., 1897, c. 224, s. 13 (6), amended.

(5) In cities and towns the assessment commissioner or the assessor, as the case may be, may vary the form of the assessment roll so as to shew in columns 1, 2, 3, 4 and 5, the name and other particulars relating to occupants of land, or if no occupant, by inserting in column 2 the words "vacant lot," and in an additional set of columns numbered 1a, 2a, 3a, 4a, add 5a, similar particulars relating to the owner or lessee, if such lessee holds a lease extending over twenty-one or more years, and by inserting in column 4a the letters "O" or "L," as the case may require, opposite the name of the owner or lessee. 62 V.(2), c. 27, s. 2, amended.

Special columns  
in cities and  
towns.

(6) In any city or town the form of the assessment roll may be varied so as to give any additional information required owing to changes in the boundaries of the municipality or other like causes, and columns may be omitted which are inapplicable to a city or town. New.

Variations of  
roll in cities and  
towns.

#### FARMERS' SONS.

23. (1) In this section the words and expressions "Farm," "Son," "Sons," "Farmer's Son," "Father," "Election," "to Vote," and "Owner," shall respectively have the meaning given thereto by section 86 of The Consolidated Municipal Act, 1903. R. S. O., 1897, c. 224, s. 14 (1), amended.

Interpretation.

3 Edw. VII. c.  
19.

(2) Every farmer's son *bona fide* resident on the farm of his father or mother, at the date of the assessment, shall be entitled to be, and may be, entered on the roll, in the cases following :

Farmer's son



- (a) If the father is living, and either the father or mother is the owner of the farm, or if the father is dead and the mother is the owner of the farm, and is a widow, and the farm is assessed at an amount sufficient, if equally divided between the father and the sons or the mother and the sons, to give to each a qualification to vote at a municipal election.
- (b) Occasional or temporary absence from the farm for a time or times, not exceeding in the whole six months of the twelve months next prior to the date of the assessment by the assessor, shall not operate to disentitle a son to be considered *bona fide* resident as aforesaid.
- (c) If there are more sons than one so resident, and if the farm is not assessed at an amount sufficient, if equally divided between them, to give a qualification to vote at a municipal election to the father and all the sons, where the father is living, or to the mother and all the sons where the father is dead and the mother is the owner of the farm and is a widow, then the father or the mother, as the case may be, shall be assessed in respect of the farm, and the right to be entered on the roll as a farmer's son shall belong to and be the right only of the eldest or such of the elder of said sons to whom the amount at which the farm is assessed will, when equally divided between them and the father, or between them and the mother, as the case may be, give a qualification so to vote.
- (d) If the amount at which the farm is assessed is not sufficient, if equally divided between the father, if living, and one son, or, where the father is dead and the mother is the owner of the farm and is a widow, between the mother and one son, to give to each a qualification so to vote, then the father or the mother, as the case may be, shall be assessed in respect of the farm, and no son shall be entitled to be entered on the roll as a farmer's son. R. S. O., 1897, c. 224, s. 14 (2), a-e., amended.
- (e) When a farmer's son is entered on the roll under any of the above provisions, the letters "F. S." shall be inserted after his name in the proper column of the roll. See R. S. O., 1897, c. 224, s. 14 (2) f.

MANHOOD SUFFRAGE VOTERS.

24. (1) In municipalities in which The Manhood Suffrage Registration Act is not in force the assessor shall place on the assessment roll, as qualified to be a voter under The Ontario Election Act, the name of every male person of the full age of twenty-one years not disqualified from voting at elections for the Legislative Assembly of Ontario and a subject of His Majesty by birth or naturalization, who delivers or causes to be delivered to the assessor an affidavit signed by such person in one of the forms in Schedule B appended hereto, or to the effect therein set forth, if the facts stated are such as entitle such person to be placed thereon, and the affidavit may be made before any assessor, Justice of the Peace, commissioner for taking affidavits, or notary public; and every such officer shall, upon request, administer an oath to any person wishing to make the affidavit;

Persons to be entered on roll as M. F. voters.

Rev. Stat., c. 8.

Rev. Stat., c. 9.

Provided that such person had resided within the Province for the nine months next preceding the time fixed by statute (or by a by-law authorized by statute) for beginning to make the assessment roll in which he is entitled to be entered as a person qualified to vote.

Proviso.

And provided that such person was in good faith at the time fixed, as aforesaid, for beginning to make said roll, and still is a resident of, and domiciled in, the municipality on the roll of which he desires to be entered, and has resided in the said municipality continuously from the time fixed as aforesaid for beginning to make said roll.

Proviso.

(2) A person may be resident in the municipality within the meaning of this section, notwithstanding occasional or temporary absence in the prosecution of his occupation as a lumberman, mariner, or fisherman, or of his attendance as a student in an institution of learning in the Dominion of Canada and such occasional or temporary absence shall not disentitle such person to be entered on the assessment roll as a qualified voter.

Temporary absence not to disqualify.

(3) The assessor shall also make reasonable enquiries in order to ascertain what persons resident in his municipality, or in the section of the municipality in respect of which the assessor is acting, are entitled to be placed on the assessment roll as qualified to be voters under The Ontario Election Act, and shall place such persons on the roll as qualified to be

Enquiries by assessors.

Rev. Stat., c. 9.

voters without the affidavit referred to in sub-section 1. (g).  
R.S.O. 1897, c. 224, s. 15. See also R. S. O., 1897, c. 9, s. 8.

Students at  
College, etc.  
Rev. Stat., c. 9.

25. (1) No person shall be entitled to be marked or entered by the assessor in the assessment roll as a qualified voter under The Ontario Election Act, in respect of residence in a municipality where he is in attendance as a scholar or student at any school, university or other institution of learning unless he has no other place of residence entitling him to vote under said Act.

Other persons.

Rev. Stat., c. 9.

(2) No person shall be entitled to be marked or entered by the assessor in the assessment roll as qualified to vote under The Ontario Election Act, who at the time of marking or entering is a prisoner undergoing punishment for a criminal offence in a gaol or prison; or is a patient in a lunatic asylum; or is maintained in whole or in part as an inmate receiving charitable support or care in a municipal poor-house or house of industry, or as an inmate receiving charitable support or care in a charitable institution receiving aid from the Province under any statute in that behalf.

Complaints  
respecting roll.  
Rev. Stat., c. 9.

(3) Complaints of persons having been wrongly entered in the assessment roll as qualified to be voters under The Ontario Election Act, or of persons not having been entered thereon as qualified to be voters under said Act, who should have been so entered, may, by any person entitled to be a voter under said Act, or to be entered on the voters' list in the municipality or in the electoral district in which the municipality is situate, be made to the Court of Revision as in the case of assessments; or the complaints may be made to the County Judge under The Ontario Voters' Lists Act. R. S. O., 1897, c. 224, s. 16.

#### ENTRY OF SCHOOL SUPPORTERS ON ROLL.

Rev. Stat., c. 7.  
Assessor to be  
guided by index  
book.  
Rev. Stat., c. 204

26. Where the index book required by section 48 of The Separate Schools Act is prepared, the assessor shall be guided thereby in ascertaining who have given the notices which are by law necessary in order to entitle supporters of Roman

(g) The assessor cannot be too careful in complying with the provisions of this sub-section. He must not make any entry with the intent to give to any person not entitled to vote the right to vote, and he must not intentionally omit the name of any person from the roll whom he believes entitled to be placed thereon, or neglect to make the entries required in order to deprive any person of his right to vote.

Catholic separate schools to exemption from the public school tax. (h) R. S. O., 1897, c. 224, s. 54.

27. In any case where the trustees of any Roman Catholic separate school avail themselves of the provisions contained in section 49 of The Separate Schools Act, for the purpose (amongst others) of ascertaining through the assessors of the municipality the persons who are the supporters of separate schools in such municipality, the assessor (where the entry in the index book mentioned in section 26 does not shew a ratepayer to be a supporter of separate schools) shall accept the statement of the ratepayer, or a statement made on his behalf and by his authority, and not otherwise, that he is a Roman Catholic, as sufficient *prima facie* evidence for placing such person in the proper column of the assessment roll for separate school supporters, or if the assessor knows personally any ratepayer to be a Roman Catholic this shall also be sufficient for placing him in such last mentioned column. (i) R. S. O., 1897, c. 224, s. 13 (5). See also R. S. O., 1897, c. 294, s. 49.

Evidence on which assessor to enter persons as separate school supporters. Rev. Stat., c. 294.

28. (1) In the case of a municipality in which there are supporters of a Roman Catholic separate school therein, or contiguous thereto, there shall be printed in conspicuous characters, or written across or on the assessor's notice to every ratepayer provided for by section 46 of this Act, and set forth in Schedule F hereto, in addition to the proper entry heretofore required to be made in the column respecting the school tax, the following words: "You are assessed as a separate school supporter," or "You are assessed as a public school sup-

Notice to be given of assessment as public or separate school supporter

(h) Section 48 of The Separate Schools Act makes it the duty of the clerk of every municipality to enter in a convenient index book, and in alphabetical order, the name of every person who has given to him or any former clerk of the municipality notice in writing that such person is a Roman Catholic and a supporter of a separate school in or contiguous to the municipality, as provided by the 42nd section of The Separate Schools Act, or by previous Acts respecting separate schools. The assessor is to be guided by the list in ascertaining who have given the requisite notice.

(i) The assessor is not bound to accept the statements of or made on behalf of any ratepayer under R. S. O., 1897, c. 294, s. 49, sub-section 2, in case he is made aware of or ascertains before completing his roll that such ratepayer is not a Roman Catholic, or has not given the notice required by R. S. O., 1897, c. 294, s. 42 (1) or is for any reason not entitled to exemption from public school rates. In re Roman Catholic Separate Schools. 18 O. R., 606.

porter," as the case may be ; or these words may be added to the notice to the ratepayer set forth in the said Schedule. (j).

Notice to be given of change in assessment as public or separate school supporter.

(2) Where a ratepayer who was in the next preceding year assessed as a public school supporter, is being assessed as a separate school supporter, or where a ratepayer, who was in the next preceding year assessed as a separate school supporter is being assessed as a public school supporter, it shall be the duty of the assessor to give in addition to all other notices, a written or printed notice to such ratepayer that such change is being made. R. S. O., 1897, c. 224, s. 53.

#### SCHOOL CENSUS.

Assessors to make lists of children between 8 and 14 years of age.

29. The assessors of every municipality shall, upon request being made to the clerk of the municipality by the board of education or school trustees or by the trustees of school sections before the date at which the assessors are by law required to commence the preparation of their assessment rolls when making their assessment enter in a book, to be provided by the clerk of the municipality, in the form set forth in Schedule C to this Act, the name, age and residence of every child between the ages of eight and fourteen years, resident in the municipality, and the name and residence of such child's parent or guardian, and shall return the said book to the clerk of the municipality with the assessment roll for the use of the truant officer and others. R. S. O., 1897, c. 224, s. 17 (1).

Census of children between 5 and 21.

30. The assessors of every municipality shall make an annual census of all the children in the municipality between the ages of five and sixteen years and between the ages of five and twenty-one years. The clerk shall report such census to the public school inspector and to the secretary of the board of education or trustees. In the case of townships the clerk shall report to the inspector of the division and to the secretary of each school section. R. S. O., 1897, c. 224, s. 17 (2), amended. See 1 Edw. VII., c. 39, ss. 12(3), 65 (3); s. 22 cols. 24, 25.

#### MODE OF ASSESSMENT OF LAND.

Land where assessed.

32. Except as hereinafter provided for, land shall be assessed in the municipality in which it lies, and in the case of cities and towns, in the ward in which it lies. See 2 Ed. VII., c. 31, s. 1, first part.

(j). This section provides that in the case of a municipality in which there are supporters of a Roman Catholic separate school, the supporters of public and separate schools must be distinguished in Schedule F.

OWNER OCCUPYING LAND.

33. (1) Land occupied by the owner shall be assessed against him. See R. S. O., 1897, c. 224, s. 19. Land against whom to be assessed.

RESIDENT OWNER OF UNOCCUPIED LAND.

- (2) Unoccupied land, the owner (k) of which is resident in the municipality, shall be assessed against him. See R. S. O., 1897, c. 224, s. 20. Unoccupied land of resident.

RESIDENT OWNER, LAND OCCUPIED BY TENANT.

- (3) Land owned by a resident in the municipality and occupied by any person other than the owner, shall be assessed against the owner and the tenant. See R. S. O., 1897, c. 224, s. 20. Land of resident occupied by tenant.

NON-RESIDENT OWNER, LAND OCCUPIED BY TENANT.

- (4) Occupied land owned by a person who is not a resident in the municipality shall be assessed against the owner if known, and against the tenant. See R. S. O., 1897, c. 224, ss. 20, 21. Occupied land owned by non-resident.

NON-RESIDENT OWNER, LAND UNOCCUPIED.

- (5) In cities, towns and villages unoccupied land owned by non-residents shall be assessed in the same manner as the Unoccupied land of non-resident in cities, towns or villages.

(k) The word "owner" in this section has a wide meaning. Where executors and devisees in trust of lands were assessed as owners, held that they were properly so assessed, and that their own goods might be seized for the taxes; *Dennison v. Henry*, 17 U. C. Q. B. 276. Upon seeing land occupied by an apparent owner, the assessor is bound to assess the occupant for it, no matter upon what trust the freehold of the land is held; *Franchon v. St. Thomas*, 7 U. C. L. J. 246. In the *Bank of Toronto v. Fanning*, 17 Grant 514, *Spragge, C.*, says: "I am not prepared to say that a *personal* occupation by living on a particular lot is necessary. A lot may be used with another as part of the same farm, and that without there being a house upon it, or even a barn, the house and farm buildings being upon an adjoining lot. In the case of premises so used by an owner it would be manifestly wrong in an assessor to return any part of such land as non-resident; or in case of their being so used by a tenant or other person under the owner, so to return them." It seems that a lessee of a house in a city cannot be assessed as occupier when he no longer occupies it, although his term still continues, but if he be so assessed and he neglect to appeal, he will be liable to pay the tax; *McCarrall v. Watkins*, 19 U. C. Q. B. 248.

Land not occupied by the owner is to be assessed against such owner alone (a) when he is known to be the owner of the land and resides or has a legal domicile or place of business in the municipality; but (b) if it occupied by some other person it is to be assessed against both the owner and the occupant.

land of residents ; and where the name of the owner cannot be ascertained, the assessor shall insert the word "non-resident" in the column in the assessment roll for the name of the owner opposite the description of the land. New.

Unoccupied land  
of non-resident  
in townships.

(6) In townships unoccupied land shall be denominated "lands of non-residents," unless the owner thereof resides or has a place of business in the municipality (l) where the land is situate, or gives notice in writing setting forth his full name, place of residence and post office address, to the clerk of the municipality, on or before the 20th day of April in any year that he owns such land, describing it, and requires his name to be entered on the assessment roll therefor ; which notice may be in the form or to the effect of Schedule D to this Act ; (m) and the clerk of the municipality shall, on or before the 25th day of April in each year, make up and deliver to the assessor a list of the persons requiring their names to be entered on the roll and of the lands owned by them. R. S. O., 1897, c. 224, s. 3, amended.

Record of non-  
residents'  
notices.

(7) The clerk of the municipality shall keep in a book a record of such notices and they shall stand until revoked. New.

Rights of  
appeal of non-  
residents not  
named in roll.

(8) Where the name of the owner of unoccupied land has not been entered upon the assessment roll in respect thereof by the assessor, such owner or his agent shall be entitled :

(a) To apply to the Court of Revision to have the same so entered whether the notice in sub-section 6 has

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(l) Unless the owner of unoccupied land is in fact a resident of, or has a place of business in the municipality, the assessor has no right to assess him, unless he has, in the manner provided by the statute, signified his desire to be assessed therefor. *Berlin v. Grange*, 1 E. & A. 279 and 284, and *Berlin v. Grange*, 5 U. C. C. P. 224. Unless the name of a non-resident owner be legally placed on the roll, no action will lie against him for the taxes due in respect of his land. If the land be rated as unoccupied land, without the name of a non-resident owner, the land only is liable for the amount of taxes. It was at one time held that the assessment of occupied as unoccupied land was a ground for avoiding a tax sale. See *Allan v. Fisher*, 13 U. C. C. P. 63 ; *Snyder v. Shibley*, 21 U. C. C. P. 518 ; *Street v. Fogul*, 32 U. C. Q. B. 119 ; but the court held otherwise in the *Bank of Toronto v. Fanning*, 18 Grant, 391, and *Silverthorne v. Campbell*, 24 Grant 17.

(m) Where an Act provides that a thing shall be done in a given form, that form should be strictly followed, but where the direction is that the form given, or one "to the same effect," or "to the effect following," shall be followed, the same strictness is not required. *Warren v. Love*, 7 Dowl. P. C. 602 ; *Bacon v. Ashton*, 5 Dowl. P. C. 94.

or has not been given, and the Court may order the name to be entered notwithstanding that such notice has not been given or has not been given by the time in the said sub-section provided.

- (b) Within the time allowed by law for other applications in that behalf, to apply to the Judge to have the name of the owner entered upon the assessment roll and the voters' lists, whether such notice has or has not been given; and the Judge may direct that the same be so entered as provided in section 40 of The Ontario Voters' Lists Act, notwithstanding that such notice has not been given or has not been given by the time in sub-section 6 provided.

Rev. Stat., c. 7.

R. S. O., 1897, c. 224, s. 4, amended.

SEVERAL OWNERS OF UNDIVIDED SHARES, SOME NON-RESIDENT.

- (9) Where land is owned by more persons than one, and any one of the owners is not a resident in the municipality :
- (a) If the land is occupied by any person other than the owners it shall be assessed against the tenant and against such of the owners as are known : and
- (b) If occupied by any of the owners, or if unoccupied, it shall be assessed against all the owners who are known. See R. S. O., 1897, c. 224, s. 25 (1).

Joint owners,  
resident and  
non-resident.

TENANT OF NON-RESIDENT'S LANDS, WHEN CONSIDERED OWNER.

- (10) Where land is assessed against a tenant under either of the above sub-sections 4 or 9, the tenant, for the purpose of imposing and collecting taxes upon and from the land, shall be deemed to be the owner. See R. S. O., 1897, c. 224, s. 22.

Tenant when to  
be deemed  
owner.

MARRIED WOMEN OWNER, WHETHER RESIDENT OR NON-RESIDENT.

- (11) Where a married woman, whether resident or non-resident in the municipality, is assessed as owner, the name of her husband shall also be entered in the roll as an owner. And where the property is assessed for a sum sufficient to entitle a sole owner, but insufficient to entitle two joint owners of the property to vote at municipal elections, the letter "O" shall be inserted in column 4 of the assessment roll after the name of the husband who shall be entitled to be entered on the voters' list as the owner of the property. R. S. O., 1897, c. 224, s. 19 amended.

Married woman  
when husband  
to be assessed  
as owner.



TRUSTEES, GUARDIANS, EXECUTORS, ETC.

Lands held by  
trustees, etc.

(12) Land held by a trustee, guardian, executor or administrator, shall be assessed against him as owner or tenant thereof, as the case may require, in the same manner as if he did not hold the land in a representative capacity ; but the fact that he is a trustee, guardian, executor or administrator shall, if known be stated in column 5 of the roll. Provided, however that such trustee, guardian, executor or administrator shall only be personally liable when and to such extent as he has property as such trustee, guardian, executor or administrator available for payment of such taxes. New. R. S. O., 1897, c. 224, s. 46 ; 63 V., c. 34, s. 3.

Proviso.

LAND OF RAILWAY COMPANIES, ETC.

Lands of  
Railway Co.'s  
etc.

34. The real estate of any transportation or transmission company shall be considered as land of a resident in the municipality, although the company has not an office in the municipality. (n). R. S. O., 1897, c. 224, s. 5, amended.

LAND IN WHICH THE CROWN HAS AN INTEREST

Assessment of  
land in which  
the Crown has  
an interest.

35. The owner of any land in which the Crown has an interest, and the tenant of any such land (except a tenant occupying the same in an official capacity under the Crown) shall be assessed in respect of the land in the same way as if the interest of the Crown was held by any other person ; and the interest of every person other than the Crown in such land shall be subject to the charge thereon given by section 89 and shall be liable to be sold under the provisions of this Act for arrears of taxes accrued against the land. New. See R. S. O., 1897, c. 224, ss. 7 (2) and 23.

VALUATION OF LANDS.

Valuation of  
land.

36. (1) Except in the case of mineral lands hereinafter provided for, real property shall be assessed at its actual value. (o). R. S. O., 1897, c. 224, s. 28 (1), amended.

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(n) The real estate of a railroad company within a municipality, though it has no office therein, is considered as lands of residents, and assessable there, except where it has ceased to exercise its corporate powers. For the statements to be furnished by railway companies to clerks of municipalities, see section 44.

(o) With the exception of mineral lands, the assessor is required to assess lands at their actual value, but it is no defence to an action for taxes that the property was excessively rated. *London v. The Great*

(2) In assessing land having any buildings thereon, the value of the land and buildings shall be ascertained separately and shall be set down separately in columns 13 and 14 of the assessment roll, and the assessment shall be the sum of such values. The value of the buildings shall be the amount by which the value of the land is thereby increased. New.

Buildings.

(3) In estimating the value of mineral lands, such lands and the buildings thereon shall be valued and estimated at the value of other lands in the neighborhood for agricultural purposes, but the income derived from any mine or mineral work shall be subject to taxation in the same manner as other incomes under this Act. R. S. O., 1897, c. 224, s. 28 (2).

Mineral lands

37. Plank, gravel, macadamized or other toll roads not owned by any municipal corporation shall be assessed as real estate in the municipality in which the same are situate; and in making the assessment the assessor shall take into consideration the value of (1) the land occupied by the road, (2) the materials employed in the superstructure, (3) toll houses, buildings and gates on the road, (4) quarries and gravel pits and roads to and from such places and used in connection therewith; but this section shall not include bridges 100 feet in length or over, and the approaches thereto, which are on or along such toll road and which are used therewith. R. S. O., 1897, c. 224, s. 32.

Assessment  
toll roads.

38. Every toll road owned by any person or corporation other than a municipal corporation, upon which any toll is established, whether leased to a tenant or not, shall be assessed in the municipality in which the same is situate, and where the roads extends or runs into or through more municipalities than one, each municipality shall assess that part thereof which lies within its limits, and according to the value of that part, whether a toll gate or bar is or is not upon the road in the municipality. R. S. O., 1897, c. 224, s. 33.

Toll road  
owned by  
municipalities.

Western Railway Company, 17 U. C. Q. B. 267. See also Niagara Falls Suspension Bridge Company, 17 U. C. Q. B. 19. A council has no power to fix any arbitrary rule for the guidance of its assessor in assessing or valuing the property in the municipality. A competent person should be appointed to fill the office, and he should use his own judgment in making the assessment.

The principle provided by this section should be strictly adhered to by the assessor. Councils frequently direct assessors to assess lands at such rates as they think proper. They have no right to do this. The assessors should exercise their own judgment, and leave those who feel aggrieved to appeal to the Court of Revision.

Assessment of  
farm lands in  
towns and  
villages, etc.

39. (1) In any town or village (p) in which there are lands held and used as farm lands only, and in blocks of not less than five acres, by any one person, such lands shall be assessed as farm lands.

(a) Subject to the other sub-sections of this section such assessment shall be on the principles provided by section 40 for cases under that section.

(b) This section and section 40 shall apply whether the lands assessed have or have not been divided into building lots.

Exemption of  
farm lands in  
towns and  
villages from  
assessment for  
certain improve-  
ments.

(2) Where such lands are not benefited to as great an extent by the expenditure of moneys for and on account of public improvements of the character hereinafter mentioned in the municipality as other lands therein generally the council of such town or village shall annually, at least two months before striking the rate of taxation for the year, pass a by-law declaring what part of the said lands so held and used as farm lands only, shall be exempt or partly exempt from taxation for the expenditure of the municipality incurred for water works, whether for domestic use or for fire protection or both, the making of sidewalks, the construction of sewers or the lighting and watering of the streets, regard being had in determining such exemption to any advantage, direct or indirect, to such lands arising from such improvements, or any of them.

Proviso.

(a) Nothing in this sub-section contained shall exempt or relieve any lands therein mentioned from the general rate for the payment of any debenture debt contracted before the 14th day of April, 1892, or renewed since the said date in whole or in part.

Persons claim-  
ing exemption  
to notify council

(3) Any person claiming such exemption in whole, or in part, shall notify the council of the municipality thereof within one month after the time fixed by law for the return of the assessment roll, (q) and shall by some intelligible description indicate the land and quantity as nearly as may be in respect of which exemption is claimed.

Appeal from  
by-laws to  
county judge

(4) Any person complaining that the said by-law does not exempt or sufficiently exempt him or his said farm lands from

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(p) "Village" in the sub-section means an incorporated village. See interpretation clause 4 of section 2.

(q) For the time fixed for the return of the roll, see section 47.

taxation as aforesaid, may within 14 days after the passing thereof, notify the clerk of the municipality of the intention to appeal against the provisions of such by-law or any of them to the Judge of the County Court who shall have full power to alter or vary any or all of the provisions of the said by-law and determine the matter of complaint in accordance with the spirit and intent of the provisions of this section.

(5) The provisions relating to appeals from a Court of Revision to the County Judge, and to the amendment of the assessment roll thereon shall, so far as applicable, regulate and govern the procedure to be followed upon appeals to the County Judge under this section, and the amendment of the by-law thereon. (r).

Procedure upon  
appeals to  
county judge.

(6) Nothing in the last two preceding sub-section contained, shall be deemed to prevent or affect the right of appeal to the County Judge from the decision of a Court of Revision upon any appeal against an assessment. R. S. O., 1897, c. 224, s. 8.

Appeal from  
court of revision  
not affected.

40 (1) In assessing vacant ground, or ground used as a farm, garden, or nursery, and not in immediate demand for building purposes in cities, towns or villages, whether incorporated or not, the value of such vacant or other ground shall be that at which sales of it can be freely made and where no sales can be reasonably expected during the current year, the assessors shall, where the extent of such ground exceeds two acres in cities, and ten acres in towns and villages, value such land as though it was held for farming or gardening purposes with such percentage added thereto as the situation of the land reasonably calls for. (s)

What shall be  
deemed vacant  
land, and how  
its value shall  
be calculated  
in cities, &c.

(.) Such vacant land, though surveyed into building lots, is, unless sold as such, may be entered on the assessment roll as so many acres of the original block or lot, describing the same by the description of the block, or by the number of the lot and

How entered on  
roll.

(r) See sections 68 to 75 both inclusive. The Municipal corporation, assessor, assessment commissioner or any ratepayer may now appeal from the Court Revision to the County Judge under section 68, the provisions of which were first enacted by 62 Vic., c. 27, s. 6, in consequence of re British Mortgage Loan Company of Ontario, 29 O. R. 641.

(s) See Assessment Act, 1895, section 2, which took away the discretion which the council had under the Act of 1892. Judge McDougall, in considering appeals from the Court of Revision for the City of Toronto under this section, held that the true test was the actual value of the land.

concession of the township in which the same is situate, as the case may be.

Assessment thereof.

(3) In such case, the number and description of each lot comprising each such block shall be inserted in the assessment roll ; and each lot shall be liable for a proportionate share as to value, and the amount of the taxes, if the property is sold for arrears of taxes. (t). R. S. O., 1897, c. 224, s. 29.

Where not held for sale, but for a park, pleasure ground, etc.

41. Where ground is not held for the purpose of sale but is *bona fide* enclosed and used in connection with a residence or building, as a paddock, park, lawn, garden, or pleasure ground, it shall be assessed therewith at a valuation which, at six per centum, would yield a sum equal to the annual rental which, in the judgment of the assessors, it is fairly and reasonably worth for the purposes for which it is used, reference being always had to its position and local advantages, unless by by-law the council requires the same to be assessed like other ground. (u). R. S. O., 1897, c. 224, s. 30 (1).

Assessment of lands of water, heat, light, power, telephone telegraph, street railway and electric railway companies.

42. (1) The property by clause (e) of paragraph 7 of section 2 of this Act declared to be "land" within the meaning of this Act owned by companies or persons supplying water, heat, light and power to municipalities and the inhabitants thereof and companies, and persons operating tramways, street railways and electric railways, shall, in a municipality divided into wards, be assessed in the ward in which the head office of such company or person is situate, if such head office is situated in such municipality, but if the head office of such company or person is not in such municipality, then the assessment may be in any ward thereof. 3 Edw. VII, c. 21, s. 6, amended.

Principle of assessment.

(2) In assessing such property, whether situate or not situate upon a highway, street, road, lane, or other public place, the same shall, when and so long as in actual use, be assessed at its actual cash value as the same would be appraised upon a sale to another company or person possessing similar powers, rights and franchises in and from the munici-

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(t) The object of this sub-section is to preserve the relation of the lots to each other in order to adjust the burden of taxation in the event of sale of a portion for taxes.

(u) Unless the council by by-law requires land not held for purposes of sale but *bona fide* enclosed and used in connection with a residence or building, or a paddock, park, lawn, garden, or pleasure ground, to be assessed like other ground, the assessor must ascertain the value at which such shall be assessed in the manner provided by this section.

pality and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting the value of such property, including the non-user of any of the same. See 2 Edw. VII., c. 31, s. 1 (3); 3 Edw. VII., c. 21, s. 7 (2).

#### INTERNATIONAL AND INTERMUNICIPAL BRIDGES.

43. (1) In the case of any bridge liable to assessment which belongs to or is in the possession of any person or incorporated company, and which crosses any river forming the boundary between the Province of Ontario and any other country or province, the part of such structure within Ontario shall be valued as an integral part of the whole and on the basis of the valuation of the whole, and at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises and subject to similar conditions and burdens but subject to the provisions and basis of assessment set forth in sub-section 2 of section 42 of this Act. (v)

Bridges over international boundary lines.

(2) Any bridge belonging to or in possession of any person or company between two municipalities in the Province shall be valued as an integral part of the whole and on the basis of the valuation of the whole. 2 Edw. VII., c. 31, s. 1 (5), amended.

Bridges between municipalities.

#### RAILWAYS.

44. (1) Every steam railway company shall annually transmit on or before the first day of February to the clerk of every municipality in which any part of the roadway or other real property of the company is situated, a statement showing :

Railway companies to furnish certain statements to clerks of municipalities

(a) The quantity of land occupied by the roadway, and the actual value thereof (according to the average value of land in the locality) as rated on the assessment roll of the previous year :

(b) The vacant land not in actual use by the company and the value thereof ;

(v) This section was originally enacted by sub-section 5 of section 1 of chapter 31, 2 Ed. VII., in consequence of the decision of the Court of Appeal in *In re Queenston Heights Bridge Assessment* (1 O. L. R. 114), in which it was held that in assessing for the purpose of taxation that part of a bridge crossing Niagara River lying within a township in Canada, regard cannot be had to its value in proportion to the value of the franchise, or of the whole bridge, or to the cost of construction, but only to the actual cash price obtainable for the land and materials situate within the township.

- (c) The quantity of land occupied by the railway and being part of a highway, street, road or other public land (but not being a highway, street or road which is merely crossed by the line of railway) and the assessable value as hereinafter mentioned of all the property belonging to or used by the company upon, in, over, under, or affixed to the same.
- (d) The real property, other than aforesaid, in actual use and occupation by the company, and its assessable value as hereinafter mentioned ;

and the clerk of the municipality shall communicate such statement to the assessor. R. S. O., 1897, c. 224, s. 31, amended.

Assessment of  
railway land.

(2) The assessor shall assess the land and property aforesaid as follows :

- (a) The roadway or right of way at the actual value thereof according to the average value of land in the locality ; (w) but not including the structures, sub-structures and superstructures, rails, ties, poles and other property thereon ;
- (b) The said vacant land at its value as other vacant lands are assessed under this Act ;
- (c) The structures, substructures, superstructures, rails, ties, poles and other property belonging to or used by the company (not including rolling stock

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(w) The assessment must be according to the average value of land in the locality. The statement from the company to the municipality need not be in any particular form. *Great Western R. W. Co. v. Ferman*, 8 U. C. C. P. 221. And the delivery of the statement by the assessor to the company of the amount at which he has assessed the real property of the company is necessary, to enable the company, if dissatisfied, to appeal. *London v. Great Western R. W. Co.*, 16 U. C. Q. B. 500 ; *Nichols v. Cumming*, 25 U. C. C. P. 169. The omission of the assessor to distinguish in his notice to a railway company between the value of the land occupied by the road and their other real property, as required by the Act, does not absolutely void the assessment. *Great Western R. W. Co. v. Rogers*, 27 U. C. Q. B. 214. It is only the subject of complaint to the Court of Revision. *S. C.* 29, U. C. Q. B. 245.

A municipal council has no authority to enter into an agreement with a railway company (except the Canada Southern Railway Company, as provided by section 3 of Chap. 63, 62 Vic.,) to assess its property in the municipality at a fixed sum each year for a term of years. It is the duty of the assessor to assess the property of the company as directed by section 36, without any interference on the part of the council.

and not including tunnels or bridges in, over, under or forming part of any highway) upon, in, over under, or affixed to any highway, street, or road (not being a highway, street or road merely crossed by the line of railway) at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights, and franchises, regard being had to all circumstances adversely affecting the value, including the non-user of any such property; and

- (d) The real property not designated in clauses (a), (b) and (c) of this sub-section in actual use and occupation by the company, at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights, and franchises. New.

But the telephone and telegraph plant, poles and wires which are used exclusively for running trains or for any other purposes of a steam railway and not for commercial purposes, shall, as heretofore, be exempt from municipal assessment or taxation. 2 Edw. VII., c. 31, s. 1, part, amended. (x)

- (3) The assessor shall deliver at, or transmit by post to, any station or office of the company a notice, addressed to the company, of the total amount at which he has assessed the said land and property of the company in his municipality or ward, showing the amount for each description of property mentioned in the above statement of the company; and such statement and notice respectively shall be held to be the assessment return and notice of assessment required by sections 18 and 46 respectively of this Act. R. S. O., 1897, c. 224, s. 31, *last part amended*. Notice of assessment

- (4) A railway company assessed under this section shall be exempt from assessment in any other manner for municipal purposes except for local improvements. New.

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(x) It has been held by County Judge Donahue of Pembroke, a board of Judges composed of County Judges Chadwick of Guelph, Gorham of Milton, and acting County Judge Clement of Berlin, and several other County Judges, that the structures, superstructures, rails, ties, poles, &c., of a railway company are not assessable under this section unless they are upon, in, over, under, or affixed to any highway, street, or road (not being a highway, street, or road merely crossed by the line of railway.)



Quinquennial  
railway  
assessment.

45. When an assessment has been made under the provisions of section 44 the amount thereof in the roll as finally revised and corrected for that year shall be the amount for which the company shall be assessed for the next following four years in respect of the land and property included in such assessment; but at any time before the return of the assessment roll, in any year, the said amount may be reduced by deducting therefrom the value of any land or property included in such assessment which has ceased to belong to the company, and a further assessment may be made of any additional land or property of the company not included in such assessment.

New.

#### NOTICE OF ASSESSMENT

Notice of  
assessment.

46. (1) The assessor, or his assistant, before the completion of the assessment roll for the municipality, or ward, as the case may be, shall, in manner hereinafter provided, leave for or transmit to every person named in the roll, a notice, according to the form given in Schedule F to this Act, of the sum or sums for which such person has been assessed, and the other particulars in Schedule F mentioned, and shall enter in the roll opposite the name of the person the date of delivering or transmitting such notice, and the entry shall be *prima facie* evidence of such delivery or transmission. (y)

(2) If the person resides or has a place of business in the municipality, the notice shall be left at his residence or place of business.

(3) If the person is not resident in the municipality the notice shall be transmitted by post to his address, if known.

(4) If the address of the person is not known the notice shall be left with some grown up person on the assessed premises, if there is any such person there resident. See R. S. O., 1897, c. 224, ss. 51 (1), 71 (10), (11).

(5) In any city the notice may be served upon a person resident or having a place of business within the municipality,

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(y) The duty imposed upon the assessor under this section in regard to giving the person notice in the manner provided is imperative. It is also the duty of the assessor to enter on the roll opposite the name of the party, the time of delivering or transmitting such notice. If an assessor, in making an assessment, makes a mistake innocently, and hands the person assessed the slip the law requires, he cannot be held accountable for any loss or injury occasioned by such mistake, as the person assessed should have the matter corrected on appeal to the Court of Revision.

either personally or by leaving such notice in the office or place of business of such person in the municipality ; and where such office or place of business is situate in any public building or in any building, the apartments of which are occupied by different persons as places of business, the notice may be left with the person assessed, or in his absence with some person employed in the particular office in which the person named in the notice is engaged ; or, if there be no such person, the notice may be left in the particular office in which the person assessed is employed or engaged. R S. O., 1897, c. 224, s. 52, amended.

(6) In case any person assessed furnishes the assessment commissioner, or, if none, the clerk with a notice in writing giving an address to which the notice of assessment may be transmitted to him, and requesting that the same be transmitted to such address by registered letter, the notice of assessment shall be so transmitted ; and any notice so given to the assessment commissioner or clerk, as the case may be, shall stand until revoked in writing. New.

(7) Nothing in the preceding sub-sections contained shall be deemed to require the assessor to give, leave or transmit any notice to any person entered upon the assessment roll as a farmer's son. (2). R. S. O., 1897, c. 224, s. 51 (2), amended.

#### TIME FOR COMPLETION OF ROLL.

47. (1) Subject to the provisions of sections 53 to 56 inclusive, every assessor shall begin to make his roll in each year not later than the 15th day of February, and shall complete the same on or before the 30th day of April, and, in municipalities not having an assessment commissioner, the assessor shall attach thereto his affidavit or solemn affirmation, and in municipalities having an assessment commissioner, the assessment commissioner, or his assistant, as the case may require, shall attach thereto his affidavit or solemn affirmation. (a)

When assessment roll to be completed.

(2) A farmer's son is not entitled to the notice, but the assessor is required to enter and set forth in any notice given or transmitted to any farmer, the name of every person entered on the roll as a farmer's son.

(a) This section makes it imperative on the assessor to begin to make his roll not later than the 15th day of February and to complete it not later than the 30th day of April. For a wilful omission to return his roll by the date fixed he is liable to a fine not exceeding \$200 and to imprisonment in the common gaol for a period not exceeding six months until the fine is paid, or in the discretion of the court to both fine and imprisonment. See section 199. If the delay is not wilful, he is liable to

Form of  
affidavit.

(2) The affidavit or affirmation may be according to the form given in Schedule G to this Act, and may be made before the clerk of the municipality or a Justice of the Peace having jurisdiction in the municipality, or a commissioner for taking affidavits in the county, or a notary public for the Province. R. S. O., 1897, c. 224, s. 55, amended.

Assessment roll  
to be delivered  
to clerk of the  
municipality.

(3) Subject to the provisions of sections 53 to 56 inclusive every assessor shall, on or before the thirtieth day of April, (b) deliver to the clerk of the municipality the assessment roll, completed and added up, with the affidavits attached, and the clerk shall, immediately upon the receipt of the roll, file it in his office, and it shall, at all convenient office hours, be open to the inspection of all persons requiring to inspect the same. R. S. O., 1897, c. 224, s. 56, amended (*see sections 194 and 197*).

#### CORRECTION OF ERRORS.

Correction of  
errors in roll by  
assessor.

48. Notwithstanding the delivery or transmission of any notice provided for by section 46, the assessor at any time before the time fixed for the return of the assessment roll may correct any error in any assessment and alter the roll accordingly; and he shall do so upon notice being given to him of any error; and, upon so correcting or altering any assessment, he shall deliver or transmit to the person assessed an amended notice. New.

forfeit such sum as the court shall order and adjudge, not exceeding \$100. See section 197. He must also attach to the roll the declaration provided verified upon oath. If there is a change of occupancy, and the assessor has notice of it, he may, before the return of the roll, make the necessary correction in the roll. See *in re McCulloch* and the County Judge of Leeds and Grenville, 35 U. C. Q. B. 449. And see also section 48 as to the correction by the assessor of errors before the time fixed for the return of his roll and the delivery or transmission of an amended notice to the person assessed.

Section 1 of chapter 23 of The Ontario Statutes, 1905, provides as follows :

Notwithstanding anything in The Assessment Act contained requiring the return of the assessment roll of any municipality on or before the 30th day of April, every such assessment roll returned in the present year, 1905, after the 30th day of April, but on or before the 26th day of May, shall be deemed to have been duly and legally returned, and the assessor of any such municipality shall not be liable to any penalty by reason of the non-return of such roll on or before the 30th day of April.

(b) If the roll is not completed and returned, for any reason, by this date, the work should be done as soon as possible thereafter. Section 199 imposes a penalty on the assessor for wilful default in the performance of his duty.

49. In cities where the assessment is made by wards, in case any person removes from a ward before having been assessed therein into a ward for which the assessment roll has been completed, the assessor for the last mentioned ward may at any time before the 30th day of September amend the roll by entering therein the assessment of such person, and shall forthwith give to him the notice of assessment provided for by section 46; and the person so assessed shall be entitled to appeal to the County Judge from the assessment within ten days from the time of giving such notice. New.

Amendment of roll for ward in cities after completion of.

51. If at any time it appears to any treasurer or other officer of the municipality that land liable to assessment has not been assessed for the current year or for either or both of the next two preceding years, he shall report the same to the clerk of the municipality, or if the omission to assess comes to the knowledge of the clerk of the municipality in any other manner, he shall enter such land on the next collector's roll or roll for non-residents, as the case may require, as well for the arrears of the preceding year or years, if any, as for the tax of the current year; and the valuation of the land shall be the average of the three previous years, if assessed for the said three years, but if not so assessed, the clerk shall require the assessor for the current year to value the land and it shall be the duty of the assessor to do so, when required, and to certify the valuation, in writing, to the clerk; and the owner of the land shall have the right to appeal, as provided in section 112. R. S. O., 1897, c. 224, s. 166, amended.

Correction of omission to assess land.

#### INQUIRIES TO PREVENT CREATION OF FALSE VOTES.

52. (1) To prevent the creation of false votes, where a person claims to be assessed, or to be entered or named in any assessment roll, or claims that another person should be assessed, or entered, or named in such assessment roll, as entitled to be a voter, and the assessor has reason to suspect that the person so claiming, or for whom the claim is made, has not a just right to be so assessed, or to be entered or named in the roll as so entitled to be a voter, it shall be the duty of the assessor to make reasonable inquiries before assessing, entering, or naming any such person in the assessment roll.

Assessor to make inquiries so as to prevent creation of false votes.

(2) Any person entitled to be assessed or to have his name inserted or entered in the assessment roll of a municipality shall be so assessed, or shall have his name so inserted or entered, without any request in that behalf; and a person entitled to have his name so inserted or entered in the assess-

Persons entitled to be assessed, etc., to be entered on roll without request.

ment roll, or in the list of voters based thereon or to be a voter in the municipality, shall, in order to have the name of any other person entered or inserted in the assessment roll or list of voters, as the case may be, have for all purposes the same right to apply, complain, or appeal to a Court or a Judge in that behalf as such other person would or can have personally, unless such other person actually dissents therefrom.

Penalty for causing improper entries on roll.

(3) Any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount with intent in any such case to give to a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully inserts or procures or causes the insertion of any fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with intent in any such case to deprive any person of his right to be a voter, shall, upon conviction thereof before a court of competent jurisdiction be liable to a fine not exceeding \$200, and to imprisonment until the fine is paid, or to imprisonment in the common gaol of the county or city for a period not exceeding six months, or to both such fine and imprisonment in the discretion of the court.

"Voter," meaning of. Rev. Stat., c. 7.

(4) The word "voter" in this section shall have the meaning given thereto by The Ontario Voters' Lists Act, R. S. O., 1897, c. 224, s. 57.

#### SPECIAL PROVISIONS (APPLICABLE IN CITIES, TOWNS AND VILLAGES.)

Time for taking the assessment and revising the rolls in cities, etc.

53. (1) In cities, towns and villages, the council, instead of being bound by the periods above mentioned for taking the assessment, and by the periods named for the revision of the rolls by the Court of Revision, and by the County Judge, may pass by-laws for regulating the above periods, as follows, that is to say: For taking the assessment between the 1st day of July and the 30th day of September, the rolls being returnable in such case to the city, town or village clerk on the 1st day of October; and in such case the time for closing the Court of Revision shall be the 15th day of November, and for final return by the Judge of the County Court the 15th day of December; and the assessment so made and concluded may be

adopted by the council of the following year, as the assessment on which the rate of taxation for said following year shall be fixed and levied; and the taxes for such following year shall in such case be fixed and levied upon such assessment; Provided, nevertheless that in cities the assessment may be made between the 1st day of May and the 30th day of September. R. S. O., 1897, c. 224, s. 58 (1); 62 V. (2), c. 27, s. 3; 1 Edw. VII., c. 29, s. 3. Amended.

Proviso.

(2) Where there has, from any cause, been delay in so completing the final revision of the said roll beyond the said 15th day of December, the council may notwithstanding adopt the assessment, when finally revised, as the assessment on which the rate of taxation for the said following year shall be levied. R.S.O., 1897, c. 224, s. 58 (2); 1 Edw. VII., c. 29, s. 4.

(3) In case the council deem it advisable to adopt the provisions of this section in any year for which there has been an assessment made under the previous sections of this Act, the council, instead of making a second assessment in the same year, may pass a by-law adopting the assessment roll previously made and revised in such year, and such assessment roll shall be subject to revision in the manner provided by sub-section 1 of this section, and shall have the same effect as an assessment made under said sub-section 1. R. S. O., 1897, c. 224, s. 58 (4).

Council passing by-law for taking assessment between 1st July and 1st October may act for that year on assessment already made.

54. (1) The council of any city, instead of proceeding in the manner set forth in section 53 of this Act may, by by-law, from time to time provide for making the assessment at any time prior to the 30th day of September, and may fix prior and separate dates for the return of the roll of each ward, or each sub-division of a ward, as defined in the by-law. R. S. O., 1897, c. 224, s. 59 (1), amended.

Taking assessment by wards or subdivisions in cities.

(2) Any such by-law shall also provide for holding a Court of Revision for hearing appeals from the assessments in each ward or sub-division, in the manner provided by this Act, upon the return of the assessment roll for such ward or sub-division. R. S. O., 1897, c. 224, s. 59 (2).

By-law to fix time for hearing appeals to Court of Revision.

(3) The County Judge may sit from time to time throughout the year for the purpose of hearing appeals from the Court of Revision upon the determination of appeals made to the court with respect to each roll; and the time for appeal to the Court of Revision shall be within ten days after the last day fixed for the return of the roll for each ward or sub-division of

Appeals to County Judge.

a ward ; and the time for appealing from the Court of Revision to the County Judge shall be within three days after the decision of the Court of Revision is given. R. S. O., 1897, c. 224, s. 59 (3), amended.

When revision by Judge to take place and be completed.

(4) The Judge shall arrange to hear all such appeals from time to time throughout the year, within ten days after the sitting of the Court of Revision for each ward or sub-division of a ward, and shall complete his revision of the last of such rolls for the city by the 20th day of October in each year. R. S. O., 1897, c. 224, s. 59 (4).

Adoption of assessment for following year.

(5) The assessment so made and completed may be adopted by the council of the following year as the assessment on which the rate of taxation for such following year shall be fixed and levied and the taxes for such following year shall, in such case, be fixed and levied upon the said assessment. R. S. O., 1897, c. 224, s. 59 (5), amended.

When rolls not completed by 20th October.

(6) If from any cause the final revision of the rolls for all the wards or sub-divisions in the city has not been completed by the 20th day of October, the council may adopt the assessment, when finally revised, as the assessment upon which the taxes for the following year shall be levied.

Time for giving notice, etc.

(7) In any city in which any by-law has been passed under this section, the provisions of sections 65 and 68 of this Act, so far as the same relate to the time for appealing and giving notice thereof, shall not apply, but the clerk shall give notice to every person appealing, or whose assessment or non-assessment is appealed against, at least five days before the sitting of the Court of Revision, such notice to be served upon such person, or left at his residence or place of business, or upon the premises concerning which such appeal arises, or addressed to such person through the post-office, but no advertisement of the court shall be necessary ; and in case of appeals to the County Judge, five days' notice of the day fixed by the County Judge for hearing such appeals shall be served in the manner provided in the case of appeals to the Court of Revision.

Application of S. S. 65 and 68.

(8) The provisions of the said sections 65 and 68 so far as the same are not inconsistent with the provisions of this section, shall apply to appeals made hereunder. R. S. O., 1897, c. 224, s. 59 (6), (7), (8).

55. Where an addition of any part of the localities adjacent to any city or town has been made to said city or town in any year subsequent to the 30th day of September, under the provisions of section 24 of The Consolidated Municipal Act, 1903, the council of said city or town may pass a by-law in the succeeding year, adopting the assessment of the said addition as last revised while a part of the adjoining municipality, as the basis of the assessment for said part for that year, although the assessment of the remainder of the city or town has been made, and the rate of taxation has been levied in accordance with the preceding provisions of this section; and the levying of a proportionate share of the taxation upon said addition shall not invalidate either the assessment of the remainder or the tax levied thereon; and the qualification of municipal voters in said addition shall, for the said succeeding year, be the same as that required in the municipality from which the part has been taken. R. S. O., 1897, c. 224, s. 58, (3).

Assessment of localities added to cities and towns

(Ed. VII., c. 9)

#### SPECIAL PROVISIONS APPLICABLE TO COUNTIES.

56. (1) County councils may pass by-laws for taking the assessment in towns, townships and villages between the 1st day of February and the 1st day of July.

County councils may regulate time for taking assessment.

(2) If such by-law extends the time for making and completing the assessment rolls beyond the 1st day of May, then the time for closing the Court of Revision shall be six weeks from the day to which such time is extended, and the time for final return in case of an appeal shall be twelve weeks from that day. R. S. O., 1897, c. 224, s. 61.

#### COURT OF REVISION.

##### IN CITIES.

57. (1) In every city the Court of Revision shall consist of three members, one of whom shall be appointed by the city council, and one by the mayor, and the third shall be the official arbitrator appointed for the city under The Municipal Arbitrations Act, and in the case of cities where there is no official arbitrator, or where such official arbitrator is a Judge or Junior Judge of the county in which the city is situated, the Sheriff of the county shall be the third member. R. S. O., 1897, c. 224, s. 62 (1); 1 Edw. VII., c. 29, s. 5.

Court of Revision in cities, how constituted.

Rev. Stat. c. 227

(2) In cities having a population of 100,000 or more, each member of such Court of Revision shall be paid such sum

Remuneration of members.



per annum for his services as the council may by by-law or resolution provide, and in cities having a population of 30,000 or more, but less than 100,000, each member of such court shall be paid at the rate of not more than \$300 per annum, and in other cities each member shall be paid such sum per annum as the council may by by-law or resolution provide. R. S. O., 1897, c. 224, s. 62 (2) ; 63 V., c. 34, s. 5.

Certain persons disqualified.

(3) No member of the city council, and no officer or employee of the city corporation shall be a member of the Court of Revision.

Appointment of members.

(4) The appointed members of such Court of Revision shall hold office until their successors are appointed, but the mayor or council may each or either of them, after the organization of a new council and before the 1st day of March in any year, appoint a member of such Court of Revision in place of any member appointed by the mayor or council in a preceding year.

Quorum.

(5) Two members of any Court of Revision under this section shall form a quorum, and upon the death or resignation of any member of any such court, a successor shall immediately thereafter be appointed by the authority which appointed the member so dying or resigning. In case of a vacancy in the office of Sheriff, or if the Sheriff is unable to act from any cause : cities where there is no official arbitrator, the Registrar of Deeds for the county or registry division of the county whose office is in such city, shall act as the third member of the court during such vacancy or inability of the Sheriff to act. (c). R. S. O., 1897, c. 224, s. 62 (3-5).

Filling vacancies.

#### IN OTHER MUNICIPALITIES.

Where council consists of five members only.

58. (1) In municipalities other than cities, if the council of the municipality consists of not more than five members, such five members shall be the Court of Revision for the municipality.

Where of more than five.

(2) If the council consists of more than five members, it shall appoint five of its members to be the Court of Revision. R. S. O., 1897, c. 224, s. 63.

Oath of member of Court of Revision.

(3) Every member of the Court of Revision before entering upon his duties, shall take and subscribe, before the clerk

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(c) This provision was first introduced into The Assessment Act by 60 Vic., chap. 45, sec. 69.

of the municipality, (d) the following oath (or affirmation in cases where, by law, affirmation is allowed) :

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will, to the best of my judgment and ability, and without fear, favor or partiality, honestly decide the appeals of the Court of Revision, which may be brought before me for trial as a member of said court."

R. S. O., 1897, c. 224, s. 64.

59. Three members of the Court of Revision shall be a quorum; and a majority of a quorum may decide all questions before the court. (c) But no member shall act when an appeal is being heard respecting any property in which he is directly or indirectly interested. R. S. O., 1897, c. 224, s. 65, amended.

60. The clerk of the municipality shall be the clerk of the court, (f) and shall keep in a book a record of the proceedings and decisions of the court, which shall be certified by the chairman of the court. R. S. O., 1897, c. 224, s. 66, amended.

Who to be clerk.

Record of decision.

61. The court may meet and adjourn from time to time, at pleasure, or may be summoned to meet at any time by the head of the municipality, but the first sitting shall not be held until after the expiration of at least ten days (g) from the expiration of the time within which notice of appeals may be given to the clerk of the municipality. R. S. O., 1897, c. 224, s. 67.

Meetings of Court.

(d) This sub-section provides that every member of the Court of Revision SHALL, before entering on his duties, take and subscribe the oath therein mentioned before the *clerk of the municipality*. Therefore the members of a Court of Revision cannot legally take this oath before any official other than the one mentioned in this sub-section. Had the Legislature intended otherwise, it would have so provided, as it has done in section 315 of The Consolidated Municipal Act, 1903.

While the direction of this sub-section, that the members of the Court of Revision are to be sworn, should not be ignored, it does not follow that neglect or failure to take the oath renders their acts void. (In Re McCrae and Village of Brussels, 8 O. L. R. 156.)

(e) Courts of Revision created under this Act are not obliged to hear counsel in support of an appeal against an assessment of property under the Act. A mandamus for such purpose was refused. (Re Roshach and Carlyle, 23 O. R. 37.)

(f) See note (c) to section 68.

(g) This means ten full days. (In Re Sam's v. Toronto, 9. U. C. Q. B., 181.)

Court to try all  
complaints, etc.

62. At the time or times appointed the Court shall meet and try all complaints in regard to persons wrongly placed upon or omitted from the roll, or assessed at too high or too low a sum. (h). R. S. O., 1897, c. 224, s. 68.

May administer  
oaths, etc.

63. The court, or some member thereof, may administer an oath to any party or witness, before his evidence is taken, and may issue a summons to any witness to attend such court. (i) R. S. O., 1897, c. 224, s. 69.

Compelling  
attendance of  
witnesses at  
Court of  
Revision.

64. If a person summoned to attend the Court of Revision or before a County Judge under the provisions of this Act as a witness fails, without good and sufficient reason, to attend, having first been tendered compensation for his time at the rate of 75 cents per day and his proper travelling expenses

(h) By section 13, sub-section 1, of The Manhood Suffrage Act (51 Vic., chap. 4), (now sub-section 3 of section 25 of The Assessment Act, 1904) it is provided that complaints of persons not having been entered on the roll as qualified to be voters who should have been so entered may, by any person entitled to be a voter or to be entered on the voters' list, be made to the Court of Revision as in the case of assessments, or the complaints may be made to the County Judge, under The Voters' Lists Act. The Court of Revision of a municipality refused to hear or adjudicate upon a complaint made by M., under section 13 of The Manhood Suffrage Act, that the names of certain persons had been wrongfully omitted from the assessment roll. It was held that it was the duty of the Court of Revision under this section (formerly section 61 of chap. 193, R. S. O., 1887,) to try the complaint made by M., and that if no other complete, appropriate and convenient remedy had existed M. would have been entitled to a mandamus to compel the court to perform the duty, but as the Legislature by section 68 of the Act had given a specific remedy for this very breach of duty by appeal to the County Judge, M. was not entitled to a mandamus. The right which M. was seeking to enforce was to have the names of certain persons placed on the assessment roll; not, as was contended, to have his complaint disposed of by the Court of Revision; the complaint to the Court of Revision was a means of enforcing his right, not the right itself. (In Re Marter and the Court of Revision of the Municipality of the Town of Gravenhurst, 18 O. R. 243.)

It is the duty of the court, when a person appeals against an assessment, and appears to support his appeal, to decide the complaint either one way or the other; abstaining from decision is no determination of the matter of appeal. The person appealing is entitled to a decision on his appeal before he can be made liable to pay any taxes in respect of the assessment against which he appeals. Until decided, the assessment is, as it were, withdrawn from the assessment roll. Some act of the court would, it seems, be necessary before a decision could be said to be given. (Law Society of Upper Canada v. City of Toronto, 25 U. C. Q. B., 207.)

(i) No witness can be compelled to attend till paid or tendered compensation at the rate of seventy-five cents per day, and mileage when entitled to it. (See section 64.)

if he resides more than three miles from the place of trial, or if having attended, or being present in court, he refuses to be sworn, if required to give evidence he shall incur a penalty of not more than \$25, to be recoverable with costs by and to the use of any person suing for the same either by suit in a Division Court or in any way in which penalties incurred under any by-law of the municipality may be recovered, R. S. O., 1897, c. 224, s. 70.

#### PROCEEDINGS FOR THE TRIAL OF COMPLAINTS.

65. (1) Any person complaining of an error or omission in regard to himself, as having been wrongly inserted in or omitted from the roll, or as having been undercharged or overcharged by the assessor (j) in the roll may personally, or by his agent, give notice in writing to the clerk of the municipality, (or assessment commissioner, if any there be), that he considers himself aggrieved for any or all of the causes aforesaid, (k) and shall give a name and address where notices can be served by the clerk as hereinafter provided.

Notice of  
complaint by  
person aggrieved

(2) The notice shall be given (l) to the clerk (or assessment commissioner, if any there be), within fourteen days (m) after the day upon which the roll is required by law to be

Time within  
which notices of  
appeal to the  
Court are to be  
given.

(j) It is not necessary that exemption from taxation should be raised before the Court of Revision, and a party, wrongfully assessed by reason of exemption, is not estopped by appealing to the Court of Revision. (*Canadian Pacific Railway Co. v. The Town of Calgary*, 1 Terr. L. R. 67).

This section does not enable the Court of Revision to make valid an assessment which the statute does not authorize. (*Watt v. City of London*, 22 S. C. R. 300).

(k) Where property was assessed in the occupation of a Crown official and not appealed against, and taxes collected thereunder, upon replevin, it was held that, under such circumstances, the party assessed need not appeal to the Court of Revision, the assessment being a nullity. (*Shaw v. Shaw*, 12 C. P. 456; S. C. 21, Q. B. 432) but a person assessed for property exempt from taxation, who appealed to the Court of Revision (but not to the County Judge) was held to be bound by their decision (*Scragg v. The Corporation of the City of London*, 26 Q. B. 263.)

(l) This sub-section provides that the notice of appeal shall be given to the clerk within the time therein mentioned.

(m) On an appeal to the County Judge from the Court of Revision of the Township of Winchester, a preliminary objection was taken that the notice of appeal to the Court of Revision was not given within the time prescribed by The Assessment Act. It appeared, however, that the court heard both parties, no objection being taken at the time. It was held that it was now too late to object to the action of the Court of Revision, that

returned, or within fourteen days after the return of the roll, in case the same is not returned within the time fixed for that purpose. (n).

When elector thinks any person assessed too low or too high.

(3) If a municipal elector thinks that any person has been assessed too low or too high, or has been wrongly inserted in or omitted from the roll, he may, within the time limited by the preceding sub-section, give notice in writing to the clerk of the municipality, (or assessment commissioner, if any there be), and the clerk shall give notice to such person and to the assessor, of the time when the matter will be tried by the Court of Revision; and the matter shall be decided in the same manner as complaints by a person assessed.

Clerk to give notice by posting up list.

(4) The clerk of the court shall post up in some convenient and public place within the municipality or ward a list of all complainants, on their own behalf, against the assessors' return, and of all complainants on account of the assessment of other persons, stating the names of each, with a concise description of the matter complained against, together with an announcement of the time when the court will be held to hear the complaints.

(5) No alteration shall be made in the roll unless under a complaint formally made according to the above provisions. (o) R. S. O., 1897, c. 224, s. 71, (1), (2), (3), (4).

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the question was now properly before him on appeal from such court, and that any informality had been waived. (Re Bell Telephone Co. and the Township of Winchester, 37 C. L. J. 790).

The general rule as to the computation of time fixed by a statute is, unless there is something in the statute to the contrary, as is not the case here, to hold the first day excluded, and the last day included. (Ex Parte Fallon, 5 T. R. 283.) When the roll was returned on the 1st of May, but the certificate was neither signed nor sworn to until the 4th of May, and the notice to the parties (signed) informed them that they must give notice of appeal within 14 days from the latter date, a notice of appeal given on the 18th of May, was held to be in time. (Re Allan, 10 O. R. 110).

(n) In townships in any of the Territorial Districts of Ontario the time for filing appeals against the assessment roll is fixed by section 43 of chapter 225, R. S. O., 1897, (An Act Respecting the Establishment of Municipal Institutions in Territorial Districts). This section is as follows: "Any person assessed, if he complains of his assessment, shall, within one month after the time fixed for returning the roll, give to the clerk written notice of his grounds of complaint."

(o) Any alteration made otherwise than, under a complaint, according to law, would be no valid alteration, and so regarded. (Nicholls v. Cumming, 25 U. C. C. P. 169; 26 U. C. C. P. 323; 1 S. C. R. 395).

(6) The clerk of the court shall enter the appeals on the list, in the alphabetical order of the names of the appellants and the court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. R. S. O., 1897, c. 224, s. 71 (5), amended.

Order of hearing appeals.

Postponement.

(7) Such list may be in the following form :

Form of list of appeals.

Appeals to be heard at the Court of Revision to be held at  
on the                      day of                      , 19   .

Appellant	Respecting whom	Matter complained of
A.B.....	Self.....	overcharged on land
C.D.....	E.F.....	Name omitted.
G.H.....	J.K.....	Not bona fide owner or tenant.
L.M.....	Self.....	Income overcharged.
&c.	&c.	

R. S. O., 1897, c. 224, s. 71 (6), amended.

(8) The clerk shall also advertise in some newspaper published in the municipality, or, if there be no such paper, then in some newspaper published in the nearest municipality in which one is published, the time at which the court will hold its first sitting for the year, and the advertisement shall be published at least ten days before the time of such first sittings. R. S. O., 1897, c. 224, s. 71 (7).

Clerk to advertise sittings of Court.

(9) The clerk shall also cause to be left at the residence or office of each assessor, a list of all the complaints respecting his roll. (p). R. S. O. 1897, c. 224, s. 71 (8), amended.

To leave a list with assessor.

(10) The clerk shall prepare a notice according to the form following for each person with respect to whom a complaint has been made :

And prepare notice to parties concerned.

Take notice that the Court of Revision will sit at  
on the                      day of                      in the matter of the following  
appeal.

Appellant :

Subject—(That you are not the bona fide owner or tenant

(p) This is directed to be done in order to apprise the assessor of the cause of complaint, so that he may attend, and, if deemed proper, support the roll.

(or are overcharged in assessment on the case may be.)

(as

(Signed) X. Y.,  
Clerk.

To J. K. or J. S.

and he shall also notify each person who has made a complaint of the date of the sittings of the Court. (q). R. S. O., 1897, c. 224, s. 71 (9), amended.

Service to be at residence or place of business in municipality.

(11) If the person resides or has a place of business in the municipality, the clerk shall cause the notice to be left at the person's residence or place of business.

How absentees served.

(12) If the person is not known, then the notice shall be left with some grown up person on the assessed premises, if there is any such person there resident; or if the person is not resident in the municipality, then the notice shall be addressed to such person through the post office. R. S. O., 1897, c. 224, s. 71 (10-11).

When notice to be completed.

(13) Every notice hereby required, whether by publication, advertisement, letter, or otherwise, shall be completed at least six days (r) before the sitting of the Court, and the clerk shall certify to the Court at the first day of its sitting the notices which have been so completed. R. S. O., 1897, c. 224, s. 71 (12), amended.

Clerk may require assist.

(14) Where necessary, the clerk of the municipality may,

(q) This notice to persons who make complaints to Courts of Revision was not required by the former Assessment Act (R. S. O., 1897, c. 224, s. 71, ss. 8), and it was held in the case of *Vivian v. McKim* (23 O. R. 561) that these persons were sufficiently notified by the publication of the advertisement required by sub-section 8 of this section (formerly sub-section 7 of section 71) and by the posting up of the list under sub-section 4. For form of this notice see Appendix "B"

(r) An elector served the clerk of the municipality with notice that several persons had been wrongfully inserted on the assessment roll and others omitted or assessed too high or too low, and requesting the clerk to notify them and the assessor when the matters would be tried by the Court of Revision. On the 22nd of May the Court met, when it was objected for the parties named that six days' notice had not been given, but only five. The Court then adjourned until the 30th, directing proper notice to be given, which the clerk omitted to do, and in consequence they refused on the 30th to hear the appeal and finally passed the roll. On application for a mandamus to compel them to hear and determine the matter it was held that they were right, the six days' notice being imperatively required by the Act, and that the appearance of the parties by their council to object to the want of such notice was not a waiver to it. (*Regina v. the Court of Revision of the Town of Cornwall*, 25 Q. B. 286).

at the cost of the municipality, call to his aid such assistance as may be required to effect the services which he is required by law to make, and in the event of his failure to effect such services in time for the first sitting of the Court, the Court in its discretion may appoint an adjourned sitting for the purpose of hearing the appeals for which the services were not effected in time for the first day, and the proper services shall be made for such adjourned day. R. S. O., 1897, c. 224, s. 71 (13).

ance in making services.

Power to adjourn.

(15) If the person assessed complains of an overcharge on his taxable income, he or his agent may appear before the Court and make a declaration, in case the complainant appears in person, in the form of Schedule I to this Act, and if the complainant appears by agent such agent may make the declaration in the form of Schedule J; and the Court shall thereupon enter the person assessed at such an amount of taxable income as is specified in such declaration, unless the Court is dissatisfied with the declaration, in which case the person making the declaration and any witnesses whom it may be desirable to examine may be examined on oath by the Court respecting the correctness of such declaration; and the Court shall confirm, alter, or amend the roll as the evidence seems to warrant. R. O., 1897, c. 224, s. 71 (14), amended.

Proceedings when person assessed complains of overcharge.

Effect of declaration.

(16) In other cases the Court, after hearing the complainant, and the assessor or assessors and any evidence adduced, and if deemed desirable the person complained against, shall determine the matter and confirm or amend the roll accordingly. And the Court may, in determining the value at which any land shall be assessed, have reference to the value at which similar land in the vicinity is assessed, but shall nevertheless have regard to the terms of any by-law passed under section 39 of this Act. And in all cases which come before the Court it may increase the assessment or change it by assessing the right person, the clerk giving the latter or his agent four days' notice (s) of such assessment, within which time he must appeal to the Court if he objects thereto. R. S. O., 1897, c. 224, s. 71 (15), amended.

Proceedings in other cases.

(17) It shall not be necessary to hear upon oath the complainant or assessor or the person complained against, except where the Court deems it necessary or proper, or where the

Oath of certain parties not necessary.

(s) This is an exception to the general provision in sub-section 13 requiring that every notice "shall be completed at least six days before the sitting of the Court."



evidence of the person is tendered on his own behalf or required by the opposite party. (t)

When to proceed  
*ex parte*.

(18) If either party fails to appear, either in person or by an agent, the Court may proceed *ex parte*. R. S. O., 1897, c. 224, s. 71 (16, 17). (u)

Correction of  
errors.

(19) Where it appears that there are palpable (v) errors in the roll of any municipality or of any ward which need correction, the Court may at any time during its sitting correct the same if no alteration of assessed values is involved; and, if any alteration of assessed values is necessary, the Court may extend the time for making complaints for ten days further and may then meet and determine the additional matter complained of, and the assessor may be, or may be directed by the Court to be, for such purpose the complainant. R. S. O., 1897, c. 224, s. 71 (18), amended. (See also section 48.)

Business to be  
finished by  
July 1st.

Rev. Stat. c. 225

(20) Subject to the provisions of sections 53 to 56 inclusive, and to the provisions of the Act respecting the establishment of municipal institutions in territorial districts and to the provisions of any special Act affecting any particular municipality, all the duties of the Court of Revision which relate to the matters aforesaid shall be completed and the rolls finally revised by the Court before the 1st day of July in every year. (w). R. S. O., 1897, c. 224, s. 71 (19).

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(t) This sub-section "gives considerable latitude to the Court as to the taking of evidence, and we cannot lay down any absolute rule on the subject." Per Hagarty, C. J., in *Canadian Land and Emigration Co. v. Dysart*, 12 A. R. 83.

(u) It is the duty of the clerk before proceeding *ex parte* under this sub-section to ascertain whether or not due notice has been given to the parties.

(v) "Palpable," strictly speaking, means perceptible to the touch, a something that may be felt. But according to the general understanding it means something easily perceived and detected, something that is so plain that the perception of it immediately produces detection. If errors of this nature appear and are of sufficient importance to be corrected, there may be an extension of time for making complaint in reference to them. Even if not essential that the assessor should be the complainant, under this sub-section there must be some complainant. (*Tobey v. Wilson* 43 U. C. Q. B. 229, 235)

(w) So far as the Court is concerned this sub-section would appear to be imperative. But so far as the public is concerned it may be held to be only directory. Where an act is required to be done for the public good and there has been a wrongful omission to do it and a serious inconvenience will arise from its not being done, it may be ordered to be done under

(21) Upon an appeal upon any ground against an assessment the Court of Revision may re-open the whole question of the assessment, so that omissions from, or errors in, the assessment roll may be corrected, and the accurate amount for which the assessment should be made and the person or persons who should be assessed therefor may be placed upon the roll by the Court; and if necessary the roll of any particular ward or sub-division of the municipality, even if returned as finally revised, may be opened so as to make the same correct in accordance with the finding of the Court. 3 Edw. VII., c. 21, s. 8, part.

Procedure upon appeals.

(22) The clerk shall forthwith alter and amend the assessment roll in accordance with the decisions of the Court of Revision, and shall write his name or initials against every alteration or amendment. New. See R. S. O., 1897, c. 224, s. 76.

Alteration of roll by clerk

66. The roll, as finally passed by the Court, and certified by the clerk as passed, shall, except in so far as the same may be further amended on appeal to the Judge of the County Court, be valid, and bind all parties concerned, (x) notwithstanding any defect or error committed in or with regard to such roll or any defect, error or mis-statement in the notice required by section 46 of this Act, or the omission to deliver or

Roll to be binding, notwithstanding errors in it or in notice sent to persons assessed.

the prerogative writ of mandamus. (Per Lord Campbell, C. J., in *Rex v. Rochester*, 7 E. & B. 924.) There can be no doubt that for the public good and to effectuate the intention of the Legislature, the revision of the list (though the 1st day of July have passed without it) if practicable, ought to still take place.

(x) This provision cures any flaw that may be upon the roll. (*Rex ex. rel. Hamilton v. Piper*, 8 P. R. 225.)

In *Berlin v. Grange* (1 E. and A. 285), Robinson, C. J., said: "When the statute provides that when the roll has been finally passed by the Court of Revision it shall bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, that cannot, I think, be taken to mean that it shall be binding on a party whose name there never was *any legal authority* for introducing upon the roll at all, because there the very foundation of assessment against the party is wanting."

The question, then, is whether the act of the assessor in assessing the person complaining was an act within his jurisdiction. If within his jurisdiction, the act remains, unless disallowed by the Court of Revision or on appeal to the County Judge. If not within his jurisdiction, the act is null and void, and no act of the Court of Revision or County Judge can give it validity.

transmit such notice. Provided that the provisions of this section in so far as they relate to the omission to deliver or transmit such notice shall not apply to any person who has given the clerk or assessment commissioner the notice provided for in sub-section 6 of section 46 of this Act. R. S. O., 1897, c. 224, s. 72, amended.

Copy of  
assessment roll  
duly certified to  
be evidence.

67. A copy of any assessment roll, or portion of any assessment roll, written or printed, without any erasure or interlineation, and under the seal of the corporation, and certified to be a true copy by the clerk of the municipality, shall be received as *prima facie* evidence in any court of justice without proof of the seal or signature, or the production of the original assessment roll, of which such certified copy purports to be a copy, or a part thereof. R. S. O., 1897, c. 224, s. 73.

#### APPEALS FROM THE COURT OF REVISION.

Appeal lies from  
decision or  
refusal to decide.

68. (1) An appeal to the County Judge shall lie, at the instance of the municipal corporation, or at the instance of the assessor, or assessment commissioner, or at the instance of any ratepayer of the municipality (y) not only against a decision of the Court of Revision on an appeal to the said Court, but also against omission, neglect or refusal of the said Court to hear or decide an appeal. 62 V. (2), c. 27, s. 6.

Service notice of  
appeal.  
Rev. Stat. c. 225

(2) Subject to the provisions of sections 53 to 56 inclusive, and to the provisions of The Act Respecting the Establishment of Municipal Institutions in Territorial Districts (z) and to the provisions of any special Act affecting any particular municipality, the person appealing shall in person or by his solicitor or agent, serve upon the clerk of the municipality (or assessment commissioner, if any there be), within five days (a)

(y) It was held in *Re British Mortgage Loan Co. of Ontario* (29 O.R. 641) that the appeal from the Court of Revision to the County Judge in a case where such court allows an appeal by the party assessed, against an assessment, cannot be made by the assessor as such, nor as a ratepayer, but must be by the corporation itself. This sub-section expressly confers on an assessor the right to appeal under the circumstances of the above case.

(z) The effect of the provision of section 1 of chapter 24 of The Ontario Statutes, 1905, (5 Ed. VII.) is that now all appeals from decisions of Courts of Revision in townships in any of the Territorial Districts of Ontario must be to the District Judge. The time for filing the appeal is the same as in other municipalities in the Province, that is within five days after the date limited for the closing of the Court of Revision.

(a) The Court of Revision heard appeals from the assessment roll on

after the date herein limited for the closing of the Court of Revision, a written notice (b) of his intention to appeal to the County Judge.

(3) The clerk shall, immediately after the time limited for filing said appeals, forward a list of the same to the Judge, who shall then notify the clerk of the day he appoints for the hearing thereof, and shall, if in his opinion the appeals or any of them appear to involve the calling or examination of witnesses, fix the place for holding such Court within the municipality, from the Court of Revision of which such appeal is made, or at the place nearest thereto where the sittings of the Division Court within his jurisdiction are held.

Day for hearing

Places for hearing appeals from Courts of Revision.

(4) The clerk shall thereupon give notice to all the persons appealed against in the same manner as is provided for giving notice on a complaint under section 63 of this Act; but in the event of failure by the clerk to have the required service of the notices in any appeal made, or to have the same made in proper time, the Judge may direct service to be made for some subsequent day upon which he may sit.

Clerk to notify parties.

(5) The clerk of the municipality shall cause a conspicuous notice to be posted up in his office, or the place where the council of the municipality hold their sittings, containing the names of all the appellants and persons appealed against, with a brief statement of the ground or cause of appeal, together

List of appellants, etc., to be posted up by clerk.

the 10th June, 1886, and rendered judgment on the following day. Notices of appeal dated the 15th June, 1886, were served upon the clerk on the 19th; the Court of Revision sat until the 5th July; on the 15th July the clerk notified the Judge that notice had been given of these appeals, and on the 26th July the Judge notified the clerk of the day that he had appointed for hearing the appeals, and the clerk notified the parties. It was held that the limitation in this section should be construed to mean that notice of appeal should not be served after the expiration of five days from the closing of the Court of Revision; and also that the service in this case was within the five days, as the notices were in the hands of the clerk during the five days, and were acted upon by him; and further, that service prior to the expiry of the five days was good service. (*Scott v. Town of Listowel*; *Livingstone v. Town of Listowel* (12 P. R. 77)).

(b) The notice is to be of the intention to appeal. Its object is simply to inform the parties concerned that the person decided against is dissatisfied and intends to avail himself of the right to appeal. If it substantially gives this information, no matter what the form is, it is sufficient. The grounds of the appeal need not be stated. But it should, on the face of the notice, in some manner appear that the party is dissatisfied with the decision intended to be appealed against. There does not appear to be any power to waive these notices so as to give the Court jurisdiction.

with the date at which a Court will be held to hear appeals. R. S. O., 1897, c. 224, s. 75 (2-5).

Clerk of Court.

(6) The clerk of the municipality shall be the clerk of such court ; (c) and he shall keep, in the book referred to in section 60, a record of the decision of the Judge upon each appeal. R. S. O., 1897, c. 224, s. 75 (6), amended.

Hearing and adjournment.

Rev. Stat. c. 225

(7) At the Court so holden, the Judge shall hear the appeals and may adjourn the hearing from time to time, and defer judgment thereon at his pleasure, but so that (subject to the provisions of sections 53 to 56 inclusive, and to the provisions of The Act Respecting the Establishment of Municipal Institutions in Territorial Districts, and to the provisions of any special Act affecting any particular municipality) all the appeals may be determined before the 1st day of August. (d).

Subpoena.

(8) A subpoena to compel the attendance of any witness required before the County Judge upon any appeal under this Act may be issued by the clerk of the County Court of the county in which is situated the municipality whose assessment roll is in question, which said subpoena shall be tested as are other subpoenas issued out of the County Court of the said county in actions therein and may be intitled as is provided in section 71 of this Act. R. S. O., 1897, c. 224, s. 75 (7), (8).

Assessment roll to be produced to the Court and amended, etc.

69. At the Court to be holden by the County Judge or acting Judge of the Court to hear the appeals hereinbefore provided for, the person having charge of the assessment roll passed by the Court of Revision shall appear and produce such roll and all papers and writings in his custody connected with the matter of the appeal (e), and such roll shall be altered and amended according to the decision of the Judge, if then given, who shall write his initials against any part of the said roll in

(c) It is obligatory on the clerk of the municipality to act as clerk of the Court. No provision is made for the appointment of a substitute.

(d) Under a former Assessment Act, it was held that a County Judge in appointing a day subsequent to the 1st day of August for hearing an appeal from a Court of Revision is not, under a provision similar to this, exceeding his jurisdiction, notwithstanding the terms of this subsection. (In Re Ronald and the Village of Brussels, 9 P. R. 232).

(e) The person having the custody of the roll passed by the Court of Revision would, properly speaking, be the municipal clerk. It is made his duty on the hearing of the appeal not only to produce the roll, but "all papers and writings in his custody connected with the matter of appeal." This would include all exhibits and other papers given in evidence before the Court of Revision, touching the appeal in that Court.

which any mistake, error or omission is corrected or supplied (f); and if the decision is not then given the clerk of the Court shall when the same is given, forthwith alter and amend the roll (g) according to the same, and shall write his name or initials against every such alteration or correction. (h). R. S. O., 1897, c. 224, s. 76, amended.

Amendments  
how certified.

70. (1) In all proceedings before the County Judge or acting Judge of the Court, under or for the purposes of this Act, such Judge shall possess all such powers for compelling the attendance of and for the examination on oath of all parties whether claiming or objecting or objected to, and of all other persons whatsoever, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him, in the Division Court or in the County Court.

Powers of  
Judge sitting in  
appeal from  
Court of  
Revision

(2) The hearing of the said appeal by the County Judge shall where questions of fact are involved, be in the nature of a new trial and either party may adduce further evidence in addition to that heard before the Court Revision subject to any order as to costs or adjournment, which the Judge may consider just. R. S. O., 1897, c. 224, s. 77.

Appeal to  
County Judge  
where question  
of fact involved

71. All process or other proceedings in, about or by way of appeal, may be intituled as follows :

Style of  
proceedings

In the matter of appeal from the Court of Revision of the  
of

....., Appellant,

and

....., Respondent,

(f) It is presumed that the alteration of the roll by the Judge in any case where he is without jurisdiction would be of the same and no other effect than the alteration of the roll by a stranger.

(g) It is, in the case here provided for, made the duty of the clerk forthwith to "alter and amend" the roll, and for evidence in the event of any dispute as to the fact, "to write his name against every such alteration or correction." The order to amend is not the amendment. The latter, to be effectually made, should be actually made and this is what is provided for by this section.

(h) A municipal council has no authority to place names on the assessment roll after it is finally passed by the revising tribunal. (Regina ex. rel. Clint v. Upham, 7 L. J. 69.)

and the same need not be otherwise intituled. (i) R. S. O., 1897, c. 224, s. 78.

Costs to be apportioned by the judge, and how enforced.

**72.** The costs of any proceedings before the Court of Revision or before the Judge as aforesaid shall be paid by or apportioned between the parties in such manner as the Court or Judge thinks fit, and where costs are ordered to be paid by any party claiming or objecting or objected to or by any assessor clerk of a municipality, or other person, payment of the same shall be enforced, when ordered by the Court of Revision, by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the Judge, by execution to be issued as the judge may direct, either from the County Court or the Division Court within the county in which the municipality or assessment district, or some part thereof, is situated, in the same manner as upon an ordinary judgment for costs recovered in such Court. (j). R. S. O., 1897, c. 224, s. 79.

What costs chargeable.

**73.** The costs chargeable or to be awarded in any case may be the costs of witnesses, and of procuring their attendance, and none other ; (k) and the same shall be taxed according to the allowance in the Division Court for such costs ; (l) and in cases where execution issues, the costs thereof as in the like Court, and of enforcing the same, may also be collected thereunder. R. S. O., 1897 ; c. 224, s. 80.

(i) Where an Act expressly provides that a thing is to be done in a given form, that form should be strictly followed. (Warren v. Love 7 Dowl. P. C. 662 ; Codrington v. Curlewis, 9 Dowl. P. C. 908), but see sub-section 2 of section 8 of The Interpretation Act R. S. O., 1897, chap. 1, which provides that the word "shall" shall be construed as imperative, and the word "may" as permissive.

(j) As to the costs allowed see section 73.

(k) "and none other." These words exclude any allowance for counsel fees or for service of notices, etc.

(l) The allowance to witnesses on the Division Court scale is as follows : Attendance, per day, to witnesses residing within three miles of the place where the Court is held, if within the county, 75 cents, and if without the county, \$1.00 ; if residence of witness is over three miles from the place of holding the Court within the county, per day, \$1.00 ; if residence of witness is without the county and more than three miles from the place of holding the Court, per day, \$1.25 ; engineers, physicians, barristers, etc., not parties to the matters being heard, giving evidence of any professional service rendered by them, per day, \$4.00.

The reasonable and actual travelling expenses of witnesses over three miles shall be allowed, but in no case shall such allowance exceed 20c. per mile one way.

74. County Court Judges shall be entitled to receive from the several municipalities as their expenses for holding Courts in such municipalities other than the county town, for the purpose of hearing appeals from the Court of Revision, under the provisions of this Act the same sums as they are allowed for holding Courts for revising voters' lists. (m). R. S. O., 1897, c. 224, s. 81.

Expenses of  
county judges  
on assessment  
appeals.

75. The decision and judgment of the Judge, or acting Judge, shall be final and conclusive in every case adjudicated upon. (n). R. S. O., 1897, c. 224, s. 82, amended.

Decision of  
County Judge  
to be final.

112. (1) The Court of Revision shall, at any time during the year for which the assessment has been made or before the 1st day of July in the following year, and with or without notice, receive and decide upon the petition from any person assessed for a tenement which has remained vacant during more than three months in the year for which the assessment has been made, or from any person who declares himself, from sickness or extreme poverty, unable to pay the taxes, or who by reason of any gross and manifest error in the roll, has been overcharged, or whose land has been assessed under section 51; and the Court of Revision may (subject to the provisions of any by-law in this behalf) remit or reduce the taxes due by any such person, or reject the petition; and the council may from time to time make such by-laws, and repeal

Remission or  
reduction of  
taxes by the  
councils.

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The following is the cost of procuring the attendance of witnesses: Clerk's fee for subpoena, 25c.; each copy for service, 5c.; Bailiff's fees for serving each witness, 15c.; for every mile necessarily travelled to effect service, 12c.

(m) The per diem allowance on a County Judge, while engaged in the revision of voters' lists, is \$4.00, and he is also entitled to be paid all his reasonable personal expenses and disbursements. (See R. S. O., 1897, chap. 7, sec. 71).

(n) Under 16 Vic., c. 182, ss. 26 and 28, the decision of a County Court Judge is final only as to such matters as are submitted to him, that is, as to any alleged overcharge, or the wrongful insertion or omission of any person's name, not as to whether only the land occupied by a railway is assessable or the superstructure as well. (Great Western R. W. Co. v. Rouse, 15 Q. B. 168).

The decision of a Judge of a County Court on a question of assessment is final, when he is dealing with property that is assessable at all. (Confederation Life Association v. City of Toronto, 22 A. R. 166).



or amend the same. (o). R. S. O., 1897, c. 224, s. 74 (1), amended.

(2) An appeal may be had by such person or by the municipality from any decision of the Court of Revision under sub-section 1 of this section. R. S. O., 1897, c. 224, s. 74 (3) ; 3 Edw. VII., c. 21, s. 9, amended.

Clerks to keep the lists in their offices open to inspection, give copies to assessors, notify occupants, etc.

**122.** (1) The clerk of the municipality or assessment commissioner is hereby required to keep the said list (p) so furnished by the treasurer on file in his office, subject to the inspection of any person requiring to see the same, and he shall also deliver a copy of such list to the assessor of the municipality in each year as soon as he is appointed ; and it shall be the duty of the assessor to ascertain if any of the lots or parcels of land contained in such list are occupied or built upon or are incorrectly described, and to notify such occupants and also the owners thereof, if known, whether resident within the municipality or not, upon their respective assessment notices, or otherwise, that the land is liable to be sold for arrears of taxes, and to enter in a column (to be reserved for the purpose) the words "Occupied or Built Upon and Parties Notified," or "Not Occupied," or "Incorrectly Described," or as the case may be ; and all such lists shall be signed by the assessor, verified as provided in sub-section 2 of this section, and returned to the clerk with the assessment roll, together with a memorandum of any error discovered therein ; and the clerk shall compare the entries in the assessor's return with the assessment roll, and report any differences to the assessor for verification, and the clerk shall file such lists and any such memorandum in his office for public use, and shall furnish forthwith to the treasurer of the municipality, if the municipality is one whose officers have power to sell lands for arrears of taxes, or in other cases to the county treasurer, a true copy of the same certified to by him, under the seal of the corporation . and every such list or copy thereof shall be received in any

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(o) The Court of Revision of a municipality is obliged to receive and decide upon a petition for remission of taxes under this section, notwithstanding that the municipality has not passed any by-law on the subject. A mandamus was granted. (Re Norris, 28 Ont. R., 636.)

(p) The list referred to is the one which treasurers of counties, cities, and towns are required to furnish to the clerks under section 121, showing lands in respect of which any taxes have been in arrear for the three years next preceding the first day of January in any year.

Court as evidence in any case arising concerning the assessment of such lands. R. S. O., 1897, c. 224, s. 153, s. 155 (1); 62 V. (2), c. 27, s. 12 (1), amended.

*(See section 126 for penalty for non-performance of these duties.)*

(2) The assessor shall attach to each such list a certificate signed by him, and verified by oath or affirmation, in the form following :

Assessors' Certificates.

I do certify that I have examined all the lots in this list named ; and that I have entered the names of all occupants thereon, as well as the names of the owners thereof, when known ; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief.

R. S. O., 1897, c. 224, s. 154.

**126.** If the clerk or assessment commissioner, as the case may be, of any municipality neglects to preserve the said list of lands in arrear for taxes furnished to him by the treasurer in pursuance of section 121, or to furnish copies of such lists as required to the assessor, or neglects to return to the treasurer a correct list of the lands which have become occupied, or built upon, as required by section 122 of this Act ; or if any assessor neglects to examine the lands entered on his lists and to make returns in manner hereinbefore directed, every clerk, assessment commissioner, or assessor making such default shall, on summary conviction thereof before any two Justices of the Peace having jurisdiction in the county in which the municipality is situated, be liable to the penalties imposed by sections 197, 198, and 199 of this Act ; all fines so imposed shall be recoverable by distress and sale of any goods and chattels of the person making default. R. S. O., 1897, c. 224, s. 159, amended.

Penalty on clerks and assessors neglecting duties under preceding sections.

How to be levied

**197.** If any treasurer, assessor, clerk, or other officer, refuses or neglects to perform any duty required of him by this Act, he shall, upon conviction thereof before any Court of competent jurisdiction in the county in which he is treasurer, assessor, clerk, or other officer, forfeit to His Majesty such sum as the Court may order and adjudge, not exceeding \$100. R. S. O., 1897, c. 224, s. 249.

Penalty on officers failing to perform their duty and how enforced.

**198.** If an assessor neglects or omits to perform his duties the other assessor or other assessors (if there be more than one for the same locality) or one of such assessors shall, until a new

Other assessors may act for those in default.

appointment, perform the duties ; and any council may, after an assessor neglects or omits to perform his duties, appoint some other person to discharge such duties ; and the assessor so appointed shall have all the powers and be entitled to all the emoluments which appertain to the office. R. S. O., 1897, c. 224, s. 250.

Punishment of clerks, assessors etc., making fraudulent assessments, etc.

**199.** If any clerk, treasurer, assessment commissioner, assessor, or collector, or any assistant or other person in the employment of the municipality, acting under this Act, makes an unjust or fraudulent assessment or collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts or permits to be inserted therein the name of any person which should not be entered, or fraudulently omits or allows to be omitted the name of any person which should be entered, or wilfully omits any duty required of him by this Act, he shall, upon conviction thereof before a Court of competent jurisdiction be liable to a fine not exceeding \$200, and to imprisonment until the fine is paid, in the common gaol of the county or city for a period not exceeding six months, or to both such fine and imprisonment, in the discretion of the Court. R. S. O., 1897, c. 224, s. 251, amended.

Punishment of culpable assessors.

**200.** An assessor convicted of having made any wilfully unjust or fraudulent assessment, shall be sentenced to the greatest punishment, both by fine and imprisonment, allowed by this Act. R. S. O., 1897, c. 224, s. 253, amended.

Penalty for not making and completing assessment rolls by the proper time.

**201.** If any assessor of any township, village, or ward, except in the cases provided for by sections 53 and 56 of this Act, neglects or omits to make out and complete his assessment roll for the township, village, or ward, and to return the same to the clerk of such township or village, or of the city or town in which such ward is situated, or to the proper officer or place of deposit of such roll, on or before the 1st day of September of the year for which he is assessor, every such assessor so offending shall forfeit for every such offence the sum of \$200, one moiety thereof to the use of the municipality, and the other moiety, with costs, to such person as may sue for the same in any Court of competent jurisdiction ; but nothing herein contained shall be construed to relieve any assessor from the obligation of returning his assessment roll at the period required elsewhere by this Act, or from the penalties incurred by him for not returning the same accordingly. R. S. O., 1897, c. 224, s. 254.

EXTRACTS FROM CHAP. 25, 4 ED. VII.,  
BEING "AN ACT RESPECTING  
STATUTE LABOR."

EXEMPTIONS.

2. The following persons shall not be liable to perform statute labor or to commute therefor :

Certain person  
in naval and  
military service,  
etc., exempt.

- (a) Every person in His Majesty's Naval or Military service on full pay, or on actual service ;
- (b) Every non-commissioned officer or private of the Volunteer Force, certified by the officer commanding the company to which such volunteer belongs or is attached, as being an efficient volunteer ; but this last exemption shall not apply to any volunteer who is assessed for property. R. S. O., 1897, c. 224, s. 96.

*Firemen exempted in certain cases. See also R.S.O., 1897, c. 231, s. 6. (q)*

3. The owner or tenant of an island in the lakes not exceeding ten acres in extent and used with the houses erected thereon exclusively as a summer resort, and upon which the owner or his tenants do not reside more than three months in the year, and whereon no statute labor is done, shall not be rated for statute labor, nor shall the owner or tenant thereof be liable for the performance of statute labor or for the payment of commutation thereof for or in respect of such property. R. S. O., 1897, c. 224, s. 30 (2).

Islands used as  
summer resorts

(q) R. S. O., 1897, c. 231, s. 5, provides that the council of a city wherein the formation of companies of firemen is by by-law authorized and regulated may, by by-law, enact that when a member of a company of firemen regularly enrolled in such city has regularly and faithfully served in such company for the space of seven years consecutively, such fireman, upon producing due proof of his having so served, shall receive a certificate from the clerk of the council to that effect, and by section 6 such certificate shall exempt such fireman from the payment of any personal statute labor tax thereafter.

#### CITIES, TOWNS AND VILLAGES.

Who liable and  
in what ratio in  
cities, towns  
and villages.

4. Subject to the provisions of section 7 every other male inhabitant of a city, town, or village of the age of twenty-one years and upwards and under sixty years of age (and not otherwise exempted by law from performing statute labor), who has not been assessed upon the assessment roll of the city, town or village, shall, instead of such labor, be taxed at \$1 yearly therefor, to be levied and collected as the council of the municipality may by by-law direct. (r) R. S. O., 1897, c. 224, s. 97, amended.

#### TOWNSHIPS.

Liability of  
persons not  
otherwise  
assessed  
in townships.

5. Subject to the provisions of section 7, every male inhabitant of a township, between the ages aforesaid, who is not otherwise assessed in any municipality in the province and who is not exempt by law from performing statute labor, shall be liable to one day of statute labor on the roads and highways in the township. (s) R. S. O., 1897, c. 224, s. 100.

#### FARMERS' SONS.

Farmers' sons

6. Every farmer's son entered as such on the assessment roll of any municipality, shall, if not otherwise exempted by law, be liable to perform statute labor or commute therefor, as if he were not so entered. R. S. O., 1897, c. 224, s. 106; 62 V., (2), c. 27, s. 8, amended.

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(r) Section 561 of The Consolidated Municipal Act, 1903, empowers the council of every township to pass by-laws for (1) commutation of statute labor for any term not exceeding five years at any sum not exceeding one dollar for each day's labor. (2) That a sum not exceeding one dollar for every day's labor may or shall be paid in commutation of such statute labor. (3) For fixing the number of days' statute labor. (4) For enforcing statute labor. (5) For regulating the performance of statute labor. (6) For reducing or abolishing statute labor. (7) For keeping roads open in winter. (8) For the application of the commutation for keeping open roads. A resident ratepayer cannot be compelled to perform statute labor, if he has tendered to the pathmaster in the road division in which he is liable to perform such statute labor the sum of \$1.00 per day for the number of days statute labor with which he is charged or rated.

(s) If a person owns property in one municipality, is assessed therefor, and performs the statute labor rated and charged against such property, but is a resident of another municipality, he is not liable for the performance of statute labor in the municipality in which he resides.

#### REDUCTION OR ABOLITION OF TAX.

7. The council of every city, town, village, and township may pass by-laws to reduce or abolish the amount of statute labor to be performed or the amount to be paid in lien thereof, or to entirely abolish such statute labor and the performance thereof by all persons within the municipality. R. S. O., 1897, c. 224, ss. 98, 101.

Power to reduce or abolish statute labour

8. Subject to the provisions of section 7, no person shall be exempted from the tax in sections 4 or 5 mentioned, unless he produces a certificate that he is assessed elsewhere, or that he has performed statute labor or paid the tax elsewhere in the Province. New.

Proof to relieve from tax.

#### PERFORMANCE OF STATUTE LABOR.

9. (1) Every person assessed upon the assessment roll of a township shall, if his property is assessed at not more than \$300, be liable to two days' statute labor; at more than \$300, but not more than \$500, three days; at more than \$500, but not more than \$700, four days; at more than \$700, but not more than \$900, five days, and for every \$300 over \$900 or any fractional part thereof over \$150, one additional day; but the council of any township may, by a by-law operating generally and rateably, reduce or increase the number of days' labor to which all the persons, rated on the assessment roll or otherwise, shall be respectively liable, so that the number of days' labor to which each person is liable shall be in proportion to the amount at which he is assessed; and in all cases, both of residents and non-residents, the statute labor shall be rated and charged against every separate lot or parcel according to its assessed value. R. S. O., 1897, c. 224, s. 102, (1); s. 17, (1), *last part*.

Ratio of service in case of persons assessed

Council may reduce or increase the number of days proportionately.

(2) Wherever one person is assessed for lots or parts of several lots in one municipality, not exceeding in the aggregate two hundred acres, the said part or parts shall be rated and charged for statute labor as if the same were one lot, and the statute labor shall be rated and charged against any excess of said parts in like manner. (t) R. S. O., 1897, c. 224, s. 102, (2), *first part*.

Amount of statute labour

(1) Hall v. Farquharson, 15 A. R. 457, Patterson, J., at page 470, referring to section 87, chap. 180, R. S. O., 1877, says: "It enacts that whenever one person is assessed for lots or parts of lots in one municipality, not exceeding in the aggregate 200 acres, the said part or parts shall be rated or charged for statute labor as if the same were one lot."

Commutation  
of statute  
labour of non-  
residents.

(3) In townships where farm lots or portions thereof are owned by non-residents who have not required their names to be entered on the assessment roll, the statute labor shall be commuted by the township clerk in making out the roll required under section 96 of The Assessment Act, where such lots are under the value of \$200, to a rate not exceeding one-half per centum on the valuation; but the council may direct a less rate to be imposed by a general by-law affecting such lots. R. S. O., 1897, c. 224, s. 102 (2).

4 Ed. VII., c. 23.

(4) Every resident shall have the right to perform his whole statute labor in the statute labor division in which his residence is situate, unless otherwise ordered by the municipal council. R. S. O., 1897, c. 224, s. 109 (2), *last part.* (*As to allowance of work in extinguishing bush fires as statute labor, see R. S. O., 1897, c. 269, s. 2.*)

#### COMMUTATION OF STATUTE LABOR.

Commutation  
may be at \$1  
per day.

10. The council of any township may, by by-law, direct that a sum not exceeding \$1 a day shall be paid as commutation of statute labor, for the whole or any part of such township, in which case the commutation tax shall be added in a separate column in the collector's roll, and shall be collected and accounted for like other taxes. (u) R. S. O., 1897, c. 224, s. 103.

Commutation  
may be fixed at  
any sum not  
exceeding \$1.

11. Any local municipal council may, by a by-law passed for that purpose, fix the rate at which persons may commute their statute labor, at any sum not exceeding \$1 for each day's labor; and the sum so fixed shall apply equally to residents who are subject to statute labor and to non-residents in respect to their property. R. S. O., 1897, c. 224, s. 104.

If no by-law  
commutation to  
be at \$1.

12. Where no such by-law has been passed the statute labor in townships in respect of lands of residents and non-residents, shall be commuted at the rate of \$1 for each day's labor. (v) R. S. O., 1897, c. 224, s. 105.

etc. That is the present case. The plaintiff was assessed for several parcels, in the aggregate, including island D, being much less than 200 acres in 1880, 1881, and 1882 on the resident roll, and in 1879 on the non-resident roll. He was liable, therefore, to only one sum of \$2 in each year in respect of all his properties; and to charge island D with \$2 a year was not to act on the statutory mode prescribed or charging the statute labor according to the assessed value.

(ii) A council can pass a by-law under this section commuting the statute labor in part of a municipality.

(v) In the case of non-resident owners whose names do not appear in the roll the charge must be made against the land and not against the owner. *Canada Co. v. Howard*, 9 U. C. Q. B. 654.

14. A non-resident whose name does not appear on the resident assessment roll, shall not be permitted to perform statute labor in respect of any land owned by him ; hut a commutation tax shall be charged against every separate lot or parcel, according to its assessed value, and be entered in the non-residents collector's roll. In all cases in which taxes on such non-residents' lands are paid, the municipal council shall order the amount to be expended in the statute labor division in which the property is situate. R. S. O., 1897, c. 224, s. 108, amended.

Non-residents when not permitted to perform statute labour.

15. (1) Where an owner or tenant makes default in performing his statute labor or in payment of commutation for the same, the overseer of highways in whose division he is placed shall return him as a defaulter to the clerk of the municipality before the 15th day of August, and the clerk shall in that case enter the commutation for statute labor against the land in the collector's roll of the current or following year, and the same shall be collected by the collector. R. S. O., 1897, c. 224, s. 110 (1) ; 62 V. (2), c. 27, s. 9, ; 1 Edw. VII., c. 2, s. 6, amended.

If resident owner, etc., makes default, commutation for statute labour to be entered upon collector's roll.

EXTRACTS FROM THE PUBLIC SCHOOLS ACT, 1901, AS AMENDED  
BY SECTION 3 OF CHAPTER 32 OF 2 EDW. VII.

RURAL PUBLIC SCHOOLS.

12. (2) Where the land or property of any individual or company is situated within the limits of two or more school sections, the parts of such land or property so situated shall be assessed and returned upon the assessment roll separately, according to the divisions of the school sections within the limits of which such land or property is situate. Chap. 39, 1 Ed. VII. (O), s. 12, ss. 2.

Assessors to value lands situated in each section.

54. (1) Once in every five years (w) the assessors of the municipalities in which a union school section is situated, shall, after they have completed their respective assessments and before the first day of June, meet and determine what proportion of the annual requisition made by the trustees for school purposes shall be levied upon and collected from the taxable property of the respective municipalities out of which the union school section is formed. Notice of such determination shall be given forthwith to the secretary-treasurer of the union school section concerned, and to the clerks of the

Assessors to determine proportion.

w) Amended by Public Schools Amendment Act, 1903.



respective municipalities. In any municipality where more than one assessor is appointed and employed, the reeve or mayor of the municipality shall name the assessor who shall act for and on behalf of such municipality. (x)

Arbitration  
where assessors  
disagree.

(2) In the event of the assessors disagreeing as to such proportion, as aforesaid, the inspector in whose district the union school section is situated, with the assessors aforesaid shall determine the said matter and report the same to the clerks of the respective municipalities on or before the first day of July, and the decision of a majority shall be final and conclusive for the period of five (w) years.

When school  
section lies in  
two counties.

(3) When the union school section is composed of portions of two adjoining counties, then on the disagreement of the assessors the inspector of the county in which the school house of the union section is situated shall act as arbitrator, and the decision of a majority shall be final and conclusive for the period of five (w) years.

Meeting of  
assessors to  
determine  
proportion.

(4) The meeting of the assessors, for the purposes herein set forth, shall be called by the assessor of the municipality in which the school house of the union section is situated.

Reconsideration  
of award.

(5) The assessors or the assessors and arbitrator appointed as herein required may at the request of the inspector or five ratepayers, within one month after the filing thereof with the clerk reconsider their award, and alter or amend the same so far as to correct any omission or error in the terms in which such award is expressed. R. S. O., 1897, c. 292, s. 31; 62 V. (2), c. 36, s. 17.

Cost of  
assessors and  
arbitrators.

The cost of proceeding under the said section 54, including the fees of assessors and arbitrators, shall be borne and be paid by the municipality in which the union school section is situate, and in case such section includes portions of two or more municipalities the said cost shall be borne and be paid by the municipalities in the same proportion as the equalized assessments of the municipalities bear to each other. (y) (3 Ed. VII., c. 32, s. 4.)

(x) For form of notice, see Appendix "A." If from any cause the equalization of union school assessments has not been completed within the time required by this section, it may and ought to be completed as soon as possible thereafter.

(y) This provision was added by section 4 of The Public Schools Amendment Act, 1903.

CHAPTER 61, R. S. O., 1897.

THE JURORS' ACT.

SELECTION AND DISTRIBUTION OF JURORS FROM THE  
ASSESSMENT ROLL.

17. The mayor or reeve, the city, town, village, or township clerk, and the assessor, or assessors, if there be more than one, of the respective cities, towns, villages, and townships in Ontario, shall be *ex-officio* the first selectors of jurors for every township and village and for each ward of every such city or town. R. S. O., 1897, c. 61, s. 17. (z)

Certain municipal  
functionaries  
to be municipal  
selectors of  
jurors.

CHAPTER 271, R. S. O., 1897.

AN ACT FOR THE PROTECTION OF SHEEP, AND TO  
IMPOSE A TAX ON DOGS.

TAX ON DOGS.

1. Subject to the provision in the next following section, there shall be levied annually, in every municipality in Ontario, upon the owner, possessor, or harbinger of each dog therein, an annual tax of \$1 for a dog and \$2 for a bitch. Provided, nevertheless, that the owner or possessor of a kennel of pure bred dogs which are registered in the "Canada Kennel Register," may in any year obtain from the treasurer of the municipality a certificate of having paid to such treasurer the sum of \$10 as a tax upon such kennel for that year, and upon the production thereof to the assessor the owner or possessor of such kennel shall be exempt from assessment and any further tax in respect thereof for the said year. R. S. O., 1897, c. 271, s. 1.

Annual tax on  
dogs.

2. Upon the petition of 25 ratepayers the council of any city, town, township, or incorporated village may provide by by-law that the said tax or any part of it shall not be levied in said municipality. R. S. O., 1897, c. 271, s. 2.

Municipal  
council may  
declare that tax  
not to be levied.

3. The assessors of every municipality within which a by-law has not been passed, as provided in the preceding section, shall, at the time of making their annual assessment, enter on

Duty of  
assessors herein

(z) Section 18 provides that the selectors shall assemble annually on the 10th of October, where the meetings of the council are usually held. Section 20 provides for the production of the assessment rolls by the assessor at the time appointed, and section 21 requires the selectors to make and subscribe the oath provided before entering upon their duties.

the assessment roll, in a column prepared for the purpose, opposite the name of every person assessed, and also opposite the name of every resident inhabitant not otherwise assessed, being the owner or keeper of any dog, the number by him owned or kept. R. S. O., 1897, c. 271, s. 3.

Duty of owners  
of dogs.

4. The owner, possessor, or keeper of any dog shall, when required by the assessors, deliver to them in writing, a statement of the number of dogs owned or kept by him, whether one or more; and for every neglect or refusal to do so, and for every false statement made in respect thereof, he shall incur a penalty of \$5, to be recovered with costs before any Justice of the Peace having jurisdiction in the municipality. R. S. O., 1897, c. 271, s. 4.

Penalty.

#### CHAPTER 225, R. S. O., 1897.

#### AN ACT RESPECTING THE ESTABLISHMENT OF MUNICIPAL INSTITUTIONS IN TERRITORIAL DISTRICTS.

Assessors to be  
appointed to  
enter in assess-  
ment rolls

40. The council of every municipality in any of the said districts shall, as soon as convenient after their first meeting, appoint one or more assessors, who shall enter upon a roll to be provided for that purpose :

Freeholders and  
householders.

(1) The names of all the freeholders and householders in the municipality, stating at the same time on the roll the amount of all the real and personal property owned by such persons respectively, and the actual value thereof, and stating whether the owners are resident or not ;

Persons taxable  
for income.

(2) The names of all persons liable to taxation for income or who, though exempt from taxation, have required their names to be entered on the roll in respect of such income, stating the amount thereof ;

Farmers' sons.  
Rev. Stat. c. 224

(3) The names of all farmers' sons entitled to be assessed under the provisions of *The Assessment Act* :

Notice of  
assessment.

and the said assessor or assessors shall duly notify every person so assessed by leaving a notice at his place of abode, or if a non-resident, by mailing the same to his address, if known, or if not known, then by fixing up the same in the nearest post office, and every such notice shall state the particulars of said assessment. R. S. O., 1897, c. 225, s. 40.

Rolls to be  
returned to  
clerk.

41. The roll shall be returned to the clerk of the municipality within such time as may be provided for by any by-law passed by the council. R. S. O., 1897, c. 225, s. 41.

# APPENDIX "A."

## FORM OF NOTICE OF EQUALIZED ASSESSMENT OF UNION SCHOOL SECTIONS BY ASSESSORS. (Section 54, Public Schools Act, 1901.)

The undersigned assessors of the municipalities of  
as authorized and required by the fifty-fourth section of The Public Schools Act, 1901, hereby give notice  
to the clerks of the said municipalities that they have met and determined the proportion of the annual  
requisition for school purposes of the Public School Trustees of Union Section No.  
which shall be levied upon and collected from the taxable property of the respective municipalities out of  
which the union school section is formed, as follows :

School Section No.	Municipality of	per cent.
"	"	"
"	"	"
"	"	"
"	"	"
Total		100

This proportion of assessment, so fixed and determined by us, shall remain in force for five years  
from the date of this notice.

Dated at this day of

Assessor Municipality of  
Assessor Municipality of  
Assessor Municipality of  
Assessor Municipality of

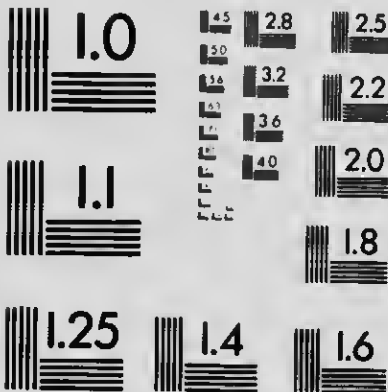
To  
An original copy of this notice, signed by the agreeing assessors, should be sent forthwith to the clerk of each of  
the councils concerned, and to the secretary of the union school sections.

Clerk of the Municipality of



# MICROCOPY RESOLUTION TEST CHART

(ANSI and ISO TEST CHART No. 2)



**APPLIED IMAGE Inc**

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APPENDIX "B."

FORM OF NOTICE TO ATTEND COURT OF REVISION.

(Section 65, Assessment Act, 1914.)

TAKE NOTICE that the Court of Revision will sit at

A.D., 19

.....on the.....day of

to hear and determine the appeals filed by you against the Assessment Roll of the Municipality of

.....for the year 19 .....

To .....

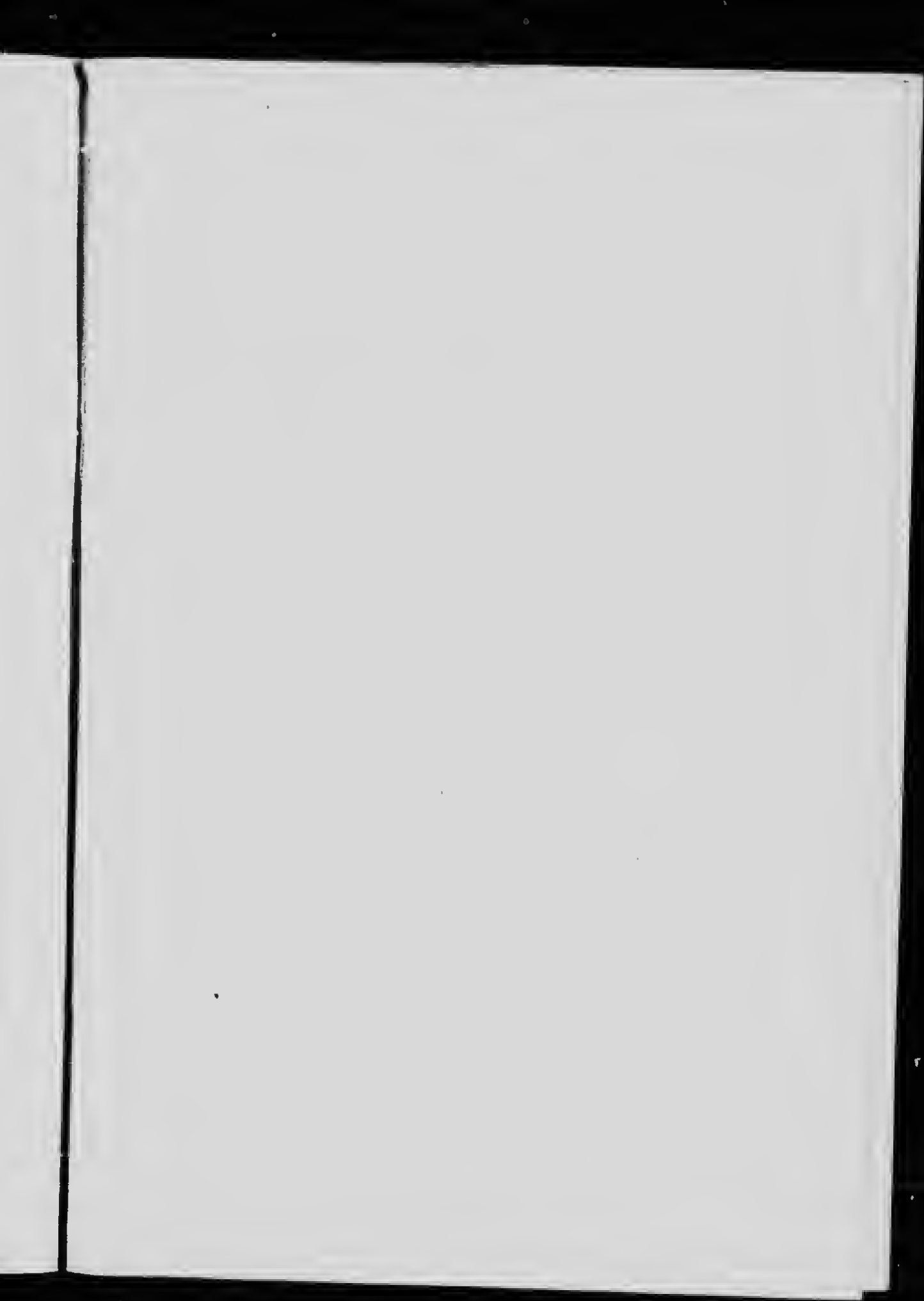
Clerk of the said Municipality.

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