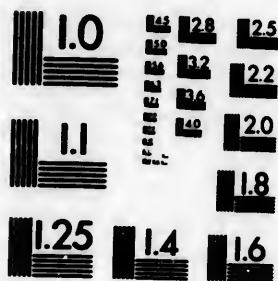


**IMAGE EVALUATION
TEST TARGET (MT-3)**



**CIHM/ICMH
Microfiche
Series.**

**CIHM/ICMH
Collection de
microfiches.**



Canadian Institute for Historical Microreproductions

Institut canadien de microreproductions historiques

1980

Technical Notes / Notes techniques

The Institute has attempted to obtain the best original copy available for filming. Physical features of this copy which may alter any of the images in the reproduction are checked below.

- ☐ Coloured covers/
Couvertures de couleur
- ☐ Coloured maps/
Cartes géographiques en couleur
- ☐ Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées
- ☐ Tight binding (may cause shadows or
distortion along interior margin)/
Reliure serré (peut causer de l'ombre ou
de la distortion le long de la marge
intérieure)
- ☐ Additional comments/
Commentaires supplémentaires

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Certains défauts susceptibles de nuire à la qualité de la reproduction sont notés ci-dessous.

- ☐ Coloured pages/
Pages de couleur
- ☐ Coloured plates/
Planches en couleur
- ☒ Show through/
Transparence
- ☐ Pages damaged/
Pages endommagées

Bibliographic Notes / Notes bibliographiques

- ☐ Only edition available/
Seule édition disponible
- ☐ Bound with other material/
Relié avec d'autres documents
- ☐ Cover title missing/
Le titre de couverture manque
- ☐ Plates missing/
Des planches manquent
- ☐ Additional comments/
Commentaires supplémentaires
- ☐ Pagination incorrect/
Erreurs de pagination
- ☐ Pages missing/
Des pages manquent
- ☐ Maps missing/
Des cartes géographiques manquent

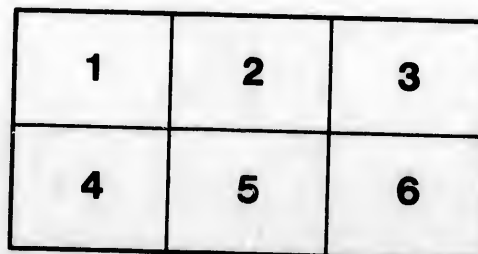
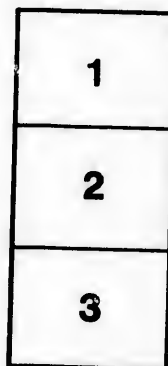
The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

The last recorded frame on each microfiche shall contain the symbol ➡ (meaning "CONTINUED"), or the symbol ▼ (meaning "END"), whichever applies.

The original copy was borrowed from, and filmed with, the kind consent of the following institution:

National Library of Canada

Maps or plates too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



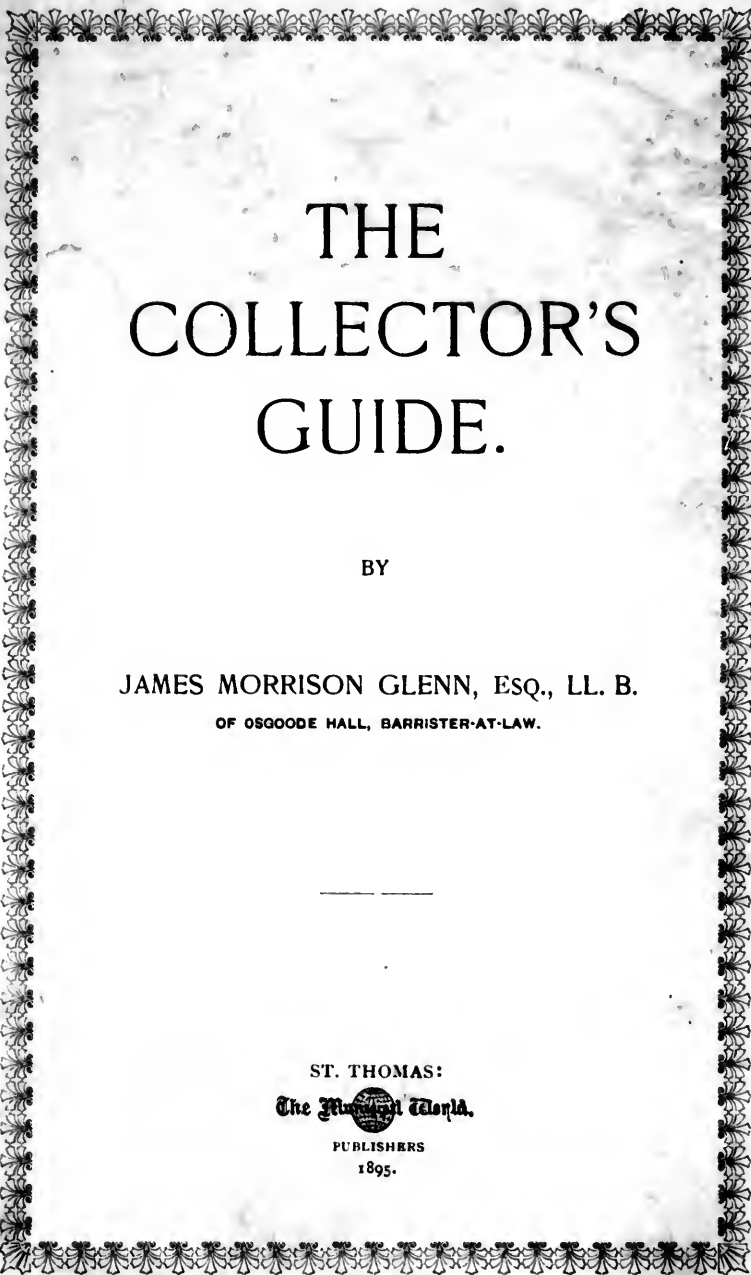
Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole ➡ signifie "A SUIVRE", le symbole ▼ signifie "FIN".

L'exemplaire filmé fut reproduit grâce à la générosité de l'établissement prêteur suivant :

Bibliothèque nationale du Canada


Les cartes ou les planches trop grandes pour être reproduites en un seul cliché sont filmées à partir de l'angle supérieure gauche, de gauche à droite et de haut en bas, en prenant le nombre d'images nécessaire. Le diagramme suivant illustre la méthode :



THE COLLECTOR'S GUIDE.

BY

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

ST. THOMAS:

PUBLISHERS
1895.

Copy deposited No. 8232

Can. Glenn, James M.



RT

THE COLLECTOR'S GUIDE.

CONTAINING THOSE PORTIONS OF THE CONSOLIDATED ASSESSMENT
ACT, 1892, AND AMENDMENTS THERETO, TOGETHER WITH
OTHER STATUTORY ENACTMENTS RELATING TO THE
APPOINTMENT AND DUTIES OF COLLECTORS OF
TAXES IN ONTARIO—WITH NOTES OF
THE MORE IMPORTANT
DECIDED CASES.

BY

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

PRICE: PAPER, 50 CENTS. CLOTH, 75 CENTS.

ST. THOMAS.
THE MUNICIPAL WORLD

1895

Entered according to Act of the Parliament of Canada, in the year one thousand eight hundred
and ninety-five, by THE MUNICIPAL WORLD, Publishers, at the
Department of Agriculture.

COLLECTORS AND THEIR DUTIES

CONSOLIDATED ASSESSMENT ACT, 1892.

12.—(1) The council of every municipality, except counties shall appoint such number of assessors and collectors for the municipality as they may think necessary, but no assessor or collector shall hold the office of clerk or treasurer. (a) R. S. O. 1887, c. 193, s. 12.

Assessors and collectors to be appointed.

(2) No person attainted or convicted of any treason or felony, or convicted of 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 who is under outlawry shall be qualified to act as assessor or collector.

13. Such councils may assign to such assessors and collectors the assessment district or districts within which they shall act, and may prescribe regulations for governing them in the performance of their duties. R. S. O. 1887, c. 193, s. 13.

Municipality may be divided into assessment districts.

(a) Before entering on his duties the collector is required to make a declaration of office before some Court, Judge, Police Magistrate or other Justice of the Peace; Con. Mun. Act, 1892, Secs. 271 and 273. For form of declaration see Appendix "A." A collector is disqualified from being a member of the Council; Ib. Sec. 77. The Council is required to appoint a collector as soon as convenient after the annual election; Ib. Sec. 254, (1). In municipalities which have passed by-laws requiring taxes to be paid on or before Dec. 14, collectors are to make a return to the treasurer upon oath on Dec. 15th, of all persons who have not paid their taxes on or before Dec. 14; Ib. Sec. 254 (3). In cities collectors need not be appointed annually but shall hold office during the pleasure of the council which may also by by-law determine their number and prescribe their duties; Ib. Sec. 255.

The collectors of the several townships in a junior county shall, *ex officio* be collectors in such townships for the provisional council and shall pay over to the provisional treasurer the money collected under any by-law of the provisional council; Ib. Sec. 256.

122. The collector, upon receiving his collection roll, shall proceed to collect the taxes therein mentioned. (b) R. S. O. 1887, c. 193, s. 122.

And collectors and sureties are responsible to the union for the money; *Ib.* Sec. 257.

Collectors are required to make a declaration of office within 20 days after knowledge of appointment under a penalty of from \$8 to \$80; *Ib.* Sec. 277.

It is also the duty of collectors under precept from the Sheriff to levy at the same time and manner as the general annual rates, all rates necessary to satisfy executions which the corporation has neglected to satisfy, and they are officers of the court for this purpose and liable to attachment mandamus or otherwise to compel them to perform the duties imposed on them; *Ib.* Sub-sec. 3, Sec. 428.

(b) Section 120 makes it the duty of the clerk to deliver the roll certified under his hand, to the collector on or before the 1st day of October, or such other day as may be prescribed by a by-law of the local municipality. The collector should see that it is certified by the clerk because his right to levy the taxes is wholly derivable from the roll.

Unless the roll be certified as directed, the collector is not bound to act under it; *Vienna v. Marr* 9 U. C. L. J. 301, C. C. Hughes. The provision contained in Sec. 120 of The Assessment Act R. S. O. c. 193, requiring the clerk to deliver to the collector the roll "certified under his hand," though possibly directory as to time, is imperative as to the certificate, and a roll unsigned by the clerk is not sufficient authority to entitle the collector to distrain, and he and his sureties are not liable under their bond for the amount of uncollected taxes; *Town of Trenton v. Dyer*, 21 A. R. 379. It is therefore equally important to the municipality that the roll be certified and signed by the clerk, and councils and clerks should see that this is always done. A roll signed by the clerk without his certificate has been held sufficient to charge the collector's sureties; *Welland v. Brown*, 4, O. R. 217. Upon receipt of the roll duly certified by the clerk, the collector is to proceed to collect the taxes.

He has no right to accept promissory notes or securities of any kind in lieu of money, but the improper acceptance of such securities does not deprive him of the right to distrain; *Spry v. McKenzie* 18 U. C. Q. B. 161. It was held in *McBride v. Gardham* 8 U. C. C. P. 296, that taxes collected during the year 1857, which were overdue since 1855 and charged on the assessment roll of 1857 by a resolution of the proper authorities to that effect on the 7th December, 1857, after the expiration of the usual time was valid and legal.

The time for levying a school tax in the city of Kingston imposed by by-law in December, 1855, was extended by resolutions of the city council under 18-Vic. c. 21, Sec. 3, until the 1st of August, 1856, and again on the 22nd December, 1856, to the 1st March, 1857. Held that the collector, who was the same person for both years, might distrain between the 1st of August and the 22nd of December, 1856, although no resolution extending the time was then in force, *McLean J. dissenting; Newberry v. Stephens*, 16 U. C. Q. B. 65.

123.—(1) In cities and towns he shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality in and for which such collector has been appointed, and shall demand (c) payment of the taxes payable by such person; or he shall leave or cause to be left with the person taxed, or at his residence or domicile, or place of business, or upon the premises in respect of which the taxes are payable, a written or printed notice, (d) specifying the amount of such taxes, and shall, at the time of such demand or notice, or immediately thereafter, enter the date thereof on his collection roll opposite the name of the person taxed, or cause the same to be so entered; and such entry shall be *prima facie* evidence of such demand or notice. (e)

(2) In places other than cities and towns, he shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality in and for which such collector has been appointed, and shall demand payment of the taxes payable

(c) In cities and towns it is optional with the collector to make a demand for taxes or give notice specifying the amount of taxes in the manner provided by this section. He may employ an agent to deliver the notice, but the demand must be made by himself personally; *Chamberlain v. Turner*, 31 U. C. C. P. 460.

(d) For form of notice see Appendix "C."

(e) The collector is required to enter on the roll the date of the demand or giving of the notice, at the time or immediately thereafter, or cause the same to be entered. This may be done by another person on his behalf. This is important because such entry is made *prima facie* evidence of such demand or notice. Without this provision the entry would not be evidence of the demand in the lifetime of the collector. See *Barton v. Dundas* 24 U. C. C. P. 273. But with it the fact of the entry appearing on the production of the roll is evidence of the making of the demand or the giving of the notice. The demand or giving of the notice is necessary to justify the subsequent proceedings authorized by the statute; *Campbell v. Elma* 13, U. C. C. P. 286. If the demand be made or notice given in the manner provided, no subsequent demand or notice is necessary in the event of a change of occupation to enable the collector to distrain the goods of the subsequent occupant; *Anglin v. Minis*, 18 U. C. C. P. 170. Per *Wilson J.*: "If the collector be required to make a fresh demand fourteen days before he can distrain, upon every change of ownership or occupancy, he may be baffled forever; besides he cannot tell whether there has been a change of ownership or not, though he might be better able to know of a change of occupancy." *Ib.* 178. The person in possession, whether the person assessed or not, may be looked upon as the person "who ought to pay taxes," so as to make a demand on him sufficient without showing a demand on the person assessed; See note (n) Sec. 124 (1)

by such person, or if so empowered by by-law (f) of the municipality he shall leave (g) with the person taxed, or at his residence, or domicile, or place of business, a written or printed notice, specifying the amount of such taxes, and shall at the time of such demand or notice as the case may be, or immediately thereafter enter the date thereof (h) on his collection roll opposite the name of the person taxed, and such entry shall be *prima facie* evidence of such demand or notice. (i) R. S. O. 1887, c. 193, s. 123.

When payment is not made, collectors to levy the tax by distress and sale.

124.—(1) Subject to the provisions of section 53 (ii) of this Act, in case a person neglects to pay his taxes for fourteen

(f) In places other than cities and towns, it is not optional with the collector to leave a notice, unless empowered by by-law of the municipality. See *Chamberlain v. Turner*, 31, U. C. C. P. 460; *Carson v. Veitch*, 9 O. R. 706; *McDermott v. Trachsel*, 26 O. R. 218; and *Goldie v. Johns*, 16 A. R. 129.

(g) It is observed that sub-section 2 says that "he shall leave," while sub-section (1) says that "he shall leave or cause to be left," so that the collector cannot employ an agent for the purpose of either making a demand or giving notice under this sub-section.

(h) He must also make the entry of the date of the making of the demand or the giving of the notice on the roll himself. In cities and towns the entry may be made by some other person on his behalf. In *Chamberlain v. Turner*, 31 U. C. C. P., which was decided under R. S. O. 1877, Cap. 180, Sec. 92, Wilson, C. J., at page 474, says: "He is therefore to make a demand and to demand payment of the taxes, and that duty should be plainly and efficiently done by the collector in person."

(i) See note (e) *Supra*.

(ii) Sec. 53, referred to above, is as follows:

Payment of taxes by instalments.

(1) In cities, towns, townships, or incorporated villages the council may, by a by-law, or by-laws, require the payment of taxes and of all local improvement assessments, including sewer rents and rates, to be made into the office of the treasurer or collector by any day or days to be named therein, in bulk or by instalments, and may by such by-law, or by-laws, allow a discount for the prompt payment of such taxes, assessments, rents or rates, or any instalment thereof, on or before the day or days on which the same shall be made payable.

Percentage on unpaid taxes.

(2) The council may by by-law or by-laws impose an additional percentage charge not exceeding five per cent. on every tax or assessment, rent or rate, or instalment thereof, whether the same be payable in bulk or instalments, which shall not be paid on the day appointed, for the payment thereof, and in towns, villages, or townships, where no day shall have been appointed for payment, the council may by by-law or by-laws impose such percentage on those which shall not have been paid on or before the 14th day of December in each year, there having been fourteen days previous demand or notice, as hereinafter provided, and such additional percentage shall be added to such unpaid tax or assessment, rent or rate, or instalment thereof, and be collected by the collector

days (j) after such demand, or after notice served pursuant to such by-law as aforesaid, or, in the case of cities and towns, after such demand or notice as aforesaid, the collector may, by himself or by his agent, (k) subject to the exemption

or otherwise, as if the same had originally been imposed and formed part of such unpaid tax or assessment, rent or rate, or instalment thereof. R. S. O. 1887, c. 193, s. 53; 51 Vic., c. 29, s. 5; 52 Vic., c. 39, s. 2.

(3) The notice or demand mentioned in section 123 of this Act may be given or made by the collector at any time after the receipt of the collection roll, and may be acted upon at any time after the expiration of fourteen days from the giving of such notice or making such demand, or after the day appointed for payment by any by-law passed under this section, whichever shall last happen. (*) 52 Vic., c. 39, s. 3.

(4) The council may, by any by-law or by-laws, to be passed under sub-section (2) of this section, impose the said additional percentage charge on every tax or assessment, rent or rate, or instalment thereof, whether the same be payable in bulk or instalments, imposed on the lands of non-residents whose names have not been set down on the assessor's roll, which shall not be paid on or before the first day of November in each year, and such additional percentage shall be added to such unpaid tax or assessment, rent or rate, or instalment thereof, in the return required to be made under section 121 of this Act, and if such return shall be made before the first day of November, and the tax or assessment, rent or rate, or instalment thereof shall afterwards be paid on or before that day, such additional percentage shall not be chargeable by the treasurer of the county, city or town, or other official, as the case may be. 54 Vic., c. 45, s. 2.

Additional percentage to be added to overdue taxes on non-resident lands.

(j) Except under the special circumstances stated in sub-section (2) of section 124, a distress cannot be made until the expiration of the fourteen days after the demand or notice. The general rule for the computation of time fixed by statute, unless there is something in the statute to the contrary, is to hold the first day excluded and the last day included. As there is no special provision in this case the general rule applies. The day upon which the demand is made is therefore not counted, and as fourteen days are allowed for payment, the distress cannot be made until the fifteenth day after the demand or giving of notice. In other words, there must be fourteen clear days between the date of making the demand or giving notice, and the seizure. *Vrooman v. Shuert*, 2 P. R. 122; *Buffalo & L. H. W. v. Brookbanks*, 1b. 126; *Hanna v. Johnson*, 3 O. R. 100. Sunday is included in reckoning the time under this sub-section; *McLean v. Pinkerton*, 7 A. R. 490.

(k) The collector may make the distress in person, or he may appoint a bailiff or agent. The collector is liable for anything done by the bailiff under his authority, *Corbett v. Johnston*, 11, U. C. C.

(*) It was held in *Chamberlain v. Turner*, 31 U. C. C. P. 460, that where taxes were made payable under a certain by-law on the 4th of June, a demand for payment of them made before that day was of no use as a demand, and could not be acted on as the act then stood, but now under sub-section 3 of section 53, the demand may be made at any time after receipt of the roll and a distress made after the expiry of the fourteen days or after the day appointed for the payment by the by-law whichever shall last happen; See also *Goldie v. Johns*, 16 A. R. 150.

(l) provided for by sections 27 and 28 of *The Act respecting the Law of Landlord and Tenant*, (ll) levy the same with costs, by distress of the goods and chattels (m) of the person who

P. 317; but it has not yet been determined whether he would be liable for anything done by the bailiff without authority or contrary to the warrant. See *Fraser v.* Page 18, U.C.Q.B. 336. The collector or bailiff should not seize more than is reasonably sufficient to pay the taxes, but he should also take care to seize enough so as to avoid the necessity of making a second seizure, in case the goods should not realize enough to pay the taxes, otherwise the legality of the second seizure might be questioned. For form of distress warrant where bailiff appointed, see Appendix "B."

(l) For a list of the articles exempt from execution, see Appendix "D."

(ll) Section 27 of *The Act respecting Landlord and Tenant* is as follows :—

27—(1) The goods and chattels exempt from seizure under execution, shall not be liable to seizure by distress by a landlord for rent in respect of a tenancy created after the first day of October, 1887, except as hereinafter provided; nor shall such goods be liable to seizure by distress by a collector of taxes accruing after the said first day of October, 1887, unless they are the property of the person actually assessed for the premises, and whose name also appears upon the collector's roll for the year as liable therefor.

(2) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption. 50 Vic. c. 23, s. 1.

As to Sec. 28 see *Norris v. Toronto*, 24 O. R. 297 note (n) *infra*.

(m) The general denomination for things personal, as distinguished from things real or lands, tenements or hereditaments. Fixtures that is those things which become when annexed to land, part of the land itself, cannot be distrained. "The weight of authority is against construing as fixtures anything which is *not annexed in fact* to the realty, except where the articles form part of the fabric as an integral portion of the architectural design, or as in the case of a mill-stone, which is an essential part of the mill." Per *Patterson J. A.*; in *Keefer v. Merrill*, 6 A. R. 121. A planing machine standing by its own weight on the floor, without fastening with belts and an engine to work it, has been held to be a chattel liable to seizure for taxes; *Hope v. Cumming*, 10 U.C.C.P. 118. So an engine and boiler detached from the freehold by a fire, have been held to be chattels; *Walton v. Jarvis*, 14 U.C.Q.B. 640. But in this case the plaintiff purchased the engine and boiler and was held estopped from contending that they continued part of the realty. Temporary floors, scantling, partitions, presses, shafting, vats, cocks, and other such things were held to be trade fixtures, liable to seizure under execution; *Hughes v. Towers*, 16 U.C.C.P. 287. So machinery of different kinds detached from the freehold; *Carscallen v. Moodie*, 15 U.C.Q.B. 304, but not so where it was taken out for alteration and repairs with the intention of replacing it again; *Grant v. Wilson*, 17 U.C.Q.B. 144. Machinery for heating green-houses which rested by its own weight

ought to pay the same, (n) or of any goods or chattels in his possession, wherever the same may be found within the

on bricks and was not fastened to the freehold, was held to be removable; also the pipes passing from the boilers through a brick wall into adjoining buildings; *Gardiner v. Parker*, 18, Chy. 26. The mains of a gas co'y laid beneath the surface of the public streets are assessable, being with the underground soil occupied by them appurtenances to the central land upon which the manufacture is carried on and subject to taxation as realty of the company; *Boyd C. in Consumers Gas Co. v. Toronto*, 31 C. L. J. 488; 15 C. L. T. 271.

(n) In *Holcomb v. Shaw* 22 U. C. Q. B. 92. and *Smith v. Shaw*, 8 U. C. L. J. 297, it was held that the expression "who ought to pay the same," is to be considered with reference to the time during which it may be said the collector's roll is in force for each year's taxes, but in *Anglin v. Minis*, 18 U. C. C. P. 170, and *Squire v. Mooney*, 30 U. C. Q. B. 531, it was held that it was to be understood as extending to any length of time and to any person who may happen at the time of the distress to be in possession. Sub-section (3) of section 20 provides as follows: "No ratepayer shall be counted more than once in returns and lists required by law for municipal purposes; and the taxes may be recovered from either the owner, tenant or occupant, *or from any future owner, tenant or occupant* saving his recourse against any other person." In *Christie v. Toronto*, 25 O. R. 425, the property in question was assessed for the year 1892 to Ernest Walker as owner, who ceased to have any interest in the lands and had gone out of possession, and McMahon, J., says: "The person who ought to pay is Ernest Walker and his goods might have been followed anywhere within the county of York." Any goods and chattels in the possession of the person who ought to pay the taxes may be distrained, although not on the assessed premises, provided they are within the county. In *Fraser v. Page*, 18 U. C. Q. B., 327, Robinson, C. J. says: "This clause is not so framed as to exclude all room for doubt upon the question we are considering, but I think the construction to be given to it is that the goods in possession of the party taxed, whether they are found on or off the land rated, are liable to be seized, provided they are within the local jurisdiction of the collector." The clause referred to was the same as at present, except that the collector could only seize within the municipality for which he was collector. By an agreement between the Great Western Ry. Co. and the Erie & Michigan Ry. Co., the former were working the latter line of railway with their own engines and cars, and the defendant as collector, seized one of such cars on the line of railway for the taxes due by the Erie & Michigan Ry. Co., in respect of other land belonging to that company. Held that the seizure was illegal, for the car when taken was in possession of the Great Western Ry. Co. and their own property; *Great Western Ry. Co. v. Rogers*, 29 U. C. Q. B. 245. This section does not authorize a distress for non-payment of taxes, of the goods of strangers on the premises, unless such goods are in the possession of the person who ought to pay the taxes or a legal occupant of the property; *Christie v. The Corporation of Toronto*, 25 O. R. 425. Premises in a city municipality were occupied as tenants by a firm of auctioneers, who, however, were not assessed in respect to them.

Rev. Stat., c. 51.

Goods in possession of warehouseman not to be seized for taxes.

Goods in possession of assignee or liquidator not to be seized for taxes.

Levy of taxes under warrant.

county in which the local municipality lies, or of any goods or chattels found on the premises, the property of, or in the possession of, any other occupant of the premises; and the costs chargeable shall be those payable to bailiffs under *The Division Courts Act.* (o)

Provided nevertheless that no goods which are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the same or of selling the same upon commission or as agent shall be levied upon or sold for such taxes; and provided further that goods in the hands of an assignee for the benefit of creditors or in the hands of a liquidator under a winding up order shall be liable only for the taxes of the assignor or of the company being wound up and the taxes upon the premises in which the said goods were at the time of the assignment or winding up order, and thereafter while the assignee or liquidator occupies the premises or the goods remain thereon. (p) R. S. O. 1887, c. 193, s. 124 (1); 52 Vic. c. 39, s. 8; 53 Vic. c. 54, s. 3; 58 Vic. c. 47, Sec. 7.

(2) If at any time after demand has been made, or notice served pursuant to such by-law, or, in the case of cities and towns, after demand has been made or notice served by the collector as aforesaid, and before the expiry of the time for payment of the taxes, the collector has good reason to be-

Goods of the plaintiff left with the auctioneers to be sold by auction, were distrained by the defendant for taxes payable upon the premises for the current year. Held that the distress was valid under Sec. 124 of The Consolidated Assessment Act, 1892; *Norris v. Toronto*, 24 O. R. 297. It was also held in this case that as Sec. 28 of the Act respecting the law of Landlord and Tenant did not contain any provision respecting taxes, Sec. 124 had to be read as if it did not contain any reference to Sec. 28. But goods in the possession of a warehouse man, and certain other persons for the purposes of storing or selling the same, are now under certain conditions exempt. See the proviso at the end of Sub-sec. 1 of Sec. 124.

(o) For tariff of Bailiff's fees under the Division Courts Act see Appendix "E."

(p) This proviso was no doubt passed in consequence of the decision in *Norris v. Toronto*. See note (n) supra. Goods in the possession of the person liable to pay the taxes for the purpose only of storing or warehousing the same, or of selling the same upon commission as agent are now exempt. Goods in the hands of an Assignee for the benefit of creditors, or of a liquidator are liable only for the taxes of the assignor or of the company and the taxes upon the premises in which the said goods were at the time of the assignment or winding up order, and thereafter while the assignee or liquidator occupies the premises or the goods remain thereon.

lieve that any party by whom taxes are payable, is about to remove his goods and chattels out of the municipality before such time has expired, and makes affidavit to that effect before the mayor or reeve of the municipality, or before any justice of the peace, such mayor, reeve or justice shall issue a warrant to the collector authorizing him to levy for the taxes and costs, in the manner provided by this Act, although the time for payment thereof may not have expired, and such collector may levy accordingly. (r) R. S. O. 1887, c. 193, s. 124 (2); 52 V. c. 39, s. 9.

(3) A city shall for the purposes of this section be deemed to be within the county of which it forms judicially a part. (s) R. S. O. 1887, c. 193, s. 124 (3).

125. If any person whose name appears on the roll is not resident within the municipality, (t) the collector shall transmit to him by post, addressed in accordance with the notice given by such non-resident, if notice has been given, a statement and demand (u) of the taxes charged against him in the roll, and shall at the time of such transmission enter the date thereof on the roll, opposite the name of such person; and such entry shall be *prima facie* evidence

Proceedings in
case of non-resi-
dents.

(r) This sub-sec. entitles the collector, if he has good reason to believe that any party whose taxes are payable, is about to remove his goods and chattels out of the municipality before the fourteen days have expired, to institute proceedings for the collection of the taxes. Without this provision no distress could be made before the expiry of the fourteen days. For form of affidavit see Appendix "F."

(s) By this section a distress may be made within a city, though it is separate from the county for municipal purposes.

(t) "When the collector proceeds to enforce payment he is to deal with those whose names appear on the roll. If they are within the municipality, he is to call on them, or at their residence or place of business and demand payment. If they are not within the municipality, he is to transmit to them by post, a statement of the taxes charged against them on the roll and demand payment. This last provision as to not being within the municipality, applies, I think, as well to the owners of non resident lands, who have requested to be assessed, as to the persons who were residents at the time the assessment was made and who were assessed as owners or occupants, but who have since removed from the municipality." Per Wilson J. in *Anglin v. Minis*, 18 U. C. C. P. 170. This case was decided under sec. 95, c. 55, of The Consolidated Statutes of Upper Canada which did not contain the words, "addressed in accordance with the notice given by such non-resident, if notice has been given." As the section stands at present, it is perfectly clear that non-residents who have requested to be assessed are entitled to notice. (u) For form of statement and demand see Appendix "C."

of such transmission and of the time thereof, and the said statement and demand shall contain, written or printed on some part thereof, the name and post office address of such collector. R. S. O. 1887, c. 193, s. 125.

When collectors may distrain for rates on non-residents' land.

126. In case of the land of non-residents, who have required their names to be entered on the roll, the collector, after one month from the date of the delivery of the roll to him, and after fourteen days from the time such demand as aforesaid has been so transmitted by post, (v) may make distress of any goods and chattels (w) which he may find upon the land (x); and no claim of property, lien or privilege shall be available to prevent the sale, or the payment of the taxes and costs out of the proceeds thereof. R. S. O. 1887, c. 193, s. 126.

Public notice of sale to be given, and in what manner.

127. The collector shall, by advertisement (y) posted up in at least three public places in the township, village or ward wherein the sale of the goods and chattels distrained is to be made, give at least six days' (z) public notice of the time and place of such sale, and of the name of the person whose property is to be sold; and, at the time named in the notice, the collector or his agents shall sell at public auction

(v) The transmission of the statement and demand is a condition precedent to the distress. Under 16 Vic. c. 182, it was held in the case of *De Blaquiére v. Becker*, 8 U. C. C. P. 167, that it was not a condition precedent, but as the act now stands it is so.

(w) Goods and chattels, see note (m) to Sec. 124.

(x) In the case of a non-resident, the power of distress is only as to any goods or chattels which the collector may find upon the land. Any goods found upon the land whether belonging to the party who ought to pay the taxes, or to a stranger, are liable to be distrained unless expressly exempted.

(y) Though such cases as *Jarvis v. Cayley*, 11 U. C. Q. B. 282; *Patterson v. Todd*, 24 U. C. Q. B. 296; *Haslitt v. Hall*, lb. 484; *Lee v. Howes*, 30 U. C. Q. B. 292; *Connor v. Douglas*, 15 Grant 456; *Gibson v. Lovell*, 19 Grant 197, show that certain errors or defects in the advertisement of sale would not affect the title of the purchaser to the goods and chattels purchased at the collector's sale, still, collectors cannot be too careful in seeing that the proceedings for the recovery of taxes are strictly regular. For form of advertisement see Appendix "G."

(z) At least six days. This means six full days; In *Re Sams v. Toronto*, 9 U. C. Q. B. 181. Where an act is required by statute to be done so many days *at least* before a given event, the time must be reckoned, excluding both the day of the act and that of the event; *Reg. v. Shropshire* 8, A. & E. 173; *Mitchell v. Foster*, 9 Dowl 527.

(a) the goods and chattels distrained, or so much thereof as may be necessary. (b) R. S. O. 1887, c. 193, s. 127.

128. If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus is made by any other person, on the ground that the property sold belonged to him, or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the person in whose possession the property was when the distress was made. (c) R. S. O. 1887, c. 193, s. 128.

Surplus, if unclaimed, to be paid to party in whose possession the goods were;

129. If such claim is made by the person for whose taxes the property was distrained, and the claim is admitted, the surplus shall be paid to the claimant. (d) R. S. O. 1887, c. 193, s. 129.

to admitted claimant.

130. If the claim is contested, such surplus money shall be paid over by the collector to the treasurer of the local municipality, who shall retain the same until the respective rights of the parties have been determined by action or otherwise. (e) R. S. O. 1887, c. 193, s. 130.

When the right to such surplus contested.

(a) The sale must be by public auction.

(b) It was the opinion of Robinson J. in the case of Jarvis v. Cayley, 11 U. C. Q. B. 182, that it was competent for a Sheriff to sue for the price of goods and lands sold by him under a writ. In order to bind the collector as against the purchaser, there should be a sufficient memorandum in writing or delivery of the goods sold, to comply with the Statute of Frauds; See Mingaye v. Corbett, 14 U. C. C. P. 557.

(c) Under section 124, the goods of any person in the possession of the person who ought to pay the taxes, and under section 126 any goods on the land of a non-resident who has required his name to be entered on the roll, may be distrained and sold for taxes. If the property sold for taxes does not belong to the person for whom it was sold, the surplus must be returned to the person in whose possession the property was when the distress was made, unless there is a dispute or contest as to the ownership of the property. In Robinson vs. Shields, 15 U. C. C. P. 386, an action by a tenant against his landlord, it was held that the receipt by the tenant from the bailiff of the surplus of the proceeds of the sale was no condonation of the tortious act complained of, the payment having been neither made nor accepted in satisfaction or compromise of the injury suffered and did not preclude him from bringing his action.

(d) See note (c) to section 128. If the claim of the person for whose taxes the property was sold is admitted, the surplus must be paid to him, but if it is contested it must be paid in by the collector to the treasurer of the municipality under the next section.

(e) See note (d) to section 129.

Recovery of
taxes by
action.

Evidence

Collector to
return his roll
and pay over
proceeds by
the day to be
appointed by
Council.

Collectors of
towns and
villages to
pay to
treasurer
weekly.

Collector of
township to
pay to
treasurer
every two
weeks.

131. If the taxes payable by any person cannot be recovered in any special manner provided by this Act, they may be recovered with interest and costs, as a debt due to the local municipality, in which case the production a copy of so much of the collector's roll as relates to the taxes payable by such person, purporting to be certified as a true copy by the clerk of the local municipality, shall be *prima facie* evidence of the debt. (f) R. S. O. 1887, c. 193, s. 131.

132. In towns, villages, and townships every collector shall return his roll to the treasurer on or before the 14th day of December in each year, or on such day in the next year not later than the 1st day of February, as the council of the municipality may appoint, and shall pay over the amount payable to such treasurer, specifying in a separate column on his roll how much of the whole amount paid over is on account of each separate rate; and shall make oath before the treasurer that the date of the demand of payment and transmission of statement and demand of taxes, required by sections 123 and 125 in each case, has been truly stated by him in the roll. (g) R. S. O. 1887, c. 193, s. 132.

(2) The collector of every town and village shall pay over to the treasurer of such town or village once every week until the final return of the roll, the total amount collected during the preceding week.

(3) The collector of every township shall pay over to the treasurer of such township once in every two weeks until the final return of the roll, the total amount collected during the preceding two weeks. 57, Vic. c. 51, s. 6.

(f) An action cannot be maintained under this section, unless it can be shown that the taxes cannot be recovered in any special manner provided by the Act; *Berlin v. Grange*, 5 U. C. C. P. 211. In *Carson v. Veitch*, 9 O. R. 706, *Rose J.* at page 711 says, "It may be, I am inclined to think it is the law, that where there is a sufficient distress upon the property and the municipality by its own laches puts it out of its power to distrain, then section 100 (now 131) does not avail to give the right to collect by action." Though the certificate of the clerk will be received as *prima facie* evidence, its accuracy may be disproved. See *Hesketh v. Ward*, 17 U. C. C. P. 190, and *Chamberlain v. Turner* 31 U. C. C. P. 460.

(g) In *Lewis v. Brady*, 17 O. R. 377, *Ferguson J.* held and his decision was affirmed by the Q. B. D., that so long as the collector has not returned the roll, he is at liberty to go on and levy where he finds distress.

133. (1) In case the collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed as in the last preceding section mentioned, the council of the town, village or township may, by resolution, authorize the collector, or some other person in his stead, to continue the levy and collection of the unpaid taxes, in the manner and with the powers provided by law for the general levy and collection of taxes. (b).

Other persons may be employed to collect taxes which Collector does not collect by a certain day.

(2) No such resolution or authority shall alter or affect the duty of the collector to return his roll, or shall, in any manner whatsoever, invalidate or otherwise affect the liability of the collector or his sureties. R. S. O. 1887, c. 193, s. 133.

134. The council of every city may, by by-law, fix the times for the return of the collector's rolls and any enlargements of the same. (i) R. S. O. 1887, c. 193, s. 134.

In cities the council may fix the time for return of collectors' rolls. Proceedings when taxes are unpaid, and cannot be collected.

135. If any of the taxes mentioned in the collector's roll remain unpaid, and the collector is not able to collect the same, he shall deliver to the treasurer of his municipality an account of all the taxes remaining due on the roll; and, in such account, the collector shall shew, opposite to each assessment, the reason why he could not collect the same by inserting in each case the words *Non-Resident* or *Not sufficient property to distrain*, or *Instructed by Council not to collect*, as the case may be; and such collector shall at the same time furnish the clerk of the municipality with a duplicate of such account, and the clerk shall, upon receiving such account, mail a notice to each person appearing on the roll with respect to whose land any taxes appear to be in arrear for that year. (j) R. S. O. 1887, c. 193, s. 135.

(h) Until the roll has been finally returned, the council has power to authorize the collector, or some other person to continue the levy and collection of the unpaid taxes; *Lewis v. Brady*, 17 O. R. 377. But after the final return of the roll, the council has no authority to authorize the collector, or any other person, to continue the collection of the taxes. *Holcomb v. Shaw*, 22 U. C. Q. B. 92, approved in *Langford v. Kirkpatrick* 2 A. R. 513.

(i) See note (h) to Sec. 133.

(j) By Sec. 132, the collector is required to return his roll by the time limited for that purpose. It is also his duty, when he is not able to collect the taxes, to deliver to the treasurer of his municipality, an account of all taxes remaining due on the roll, and in such account he is to show opposite to each assessment why he could not collect the same, and he is also to furnish the clerk with a duplicate of the account. If the collector neglects to perform the duties imposed upon him he and his sureties are liable to an action or to the proceedings prescribed by section 231.

For collector's account see Appendix Form "H."

When thus
not collected,
collectors to
be credited
with amount.

136. Upon making oath before the treasurer that the sums mentioned in such account remain unpaid, and that he has not, upon diligent inquiry, been able to discover sufficient goods or chattels belonging to or in possession of the persons charged with or liable to pay such sums, or on the premises belonging to or in the possession of any occupant thereof, whereon he could levy the same, or any part thereof, the collector shall be credited with the amount not realized. (k) R. S. O. 1887, c. 193, s. 136.

* * *

When there
is not sufficient
distress on
such lands.

144. If there is not sufficient distress upon any of the occupied lands, in the preceding section named, to satisfy the total amount of the taxes charged against the same, as well for the arrears as for the taxes of the current year, the collector shall so return it in his roll to the treasurer of the municipality, shewing the amount collected, if any, and the amount remaining unpaid, and stating the reason why payment has not been made. R. S. O. 1887, c. 193, s. 144.

* * *

When there
is distress
upon lands of
non-residents,
Treasurer
may authorize
collector to
levy.

158. Where the county treasurer is satisfied that there is distress upon any lands of non-residents in arrear for taxes in a township or village municipality, he may issue a warrant under his hand and seal to the collector of such municipality, who shall thereby be authorized to levy the amount due, upon any goods and chattels found upon the land, in the same manner, and subject to the same provisions, as are contained in sections 124 to 130 inclusive of this Act, with respect to distresses made by collectors. R. S. O. 1887, c. 193, s. 158.

RESPONSIBILITY OF OFFICERS.

Security by
treasurers and
collectors.

223. Every treasurer and collector, before entering on the duties of his office, shall enter into a bond to the corporation of the municipality for the faithful performance of his duties. R. S. O. 1887, c. 193, s. 223.

(k) Upon making the oath required by this section before the treasurer, the collector is entitled to be credited with the amount of taxes not realized. He should in the first instance be debited with the whole amount of taxes on the roll, and credited from time to time with the taxes paid in and finally with the amount not realized. For collector's oath see Appendix Form "H."

(l) See note (a) to Sec. 12. For Bond see Appendix, Form "J."

224. Such bond shall be given by the officer and two or more sufficient sureties, in such sum and in such manner as the council of the municipality by any by-law in that behalf requires and shall conform to all the provisions of such by-law. (m) R. S. O. 1887, c. 193, s. 224.

Bond with sureties.

225. 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 Her Majesty such sum as the Court may order and adjudge, not exceeding \$100. R. S. O. 1887, c. 193, s. 225.

Penalty on assessors or clerks failing to perform their duty, and how enforced.

* * *

227. If any clerk, treasurer, assessor or collector, 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 therein the name of any person who should not be entered, or fraudulently omits the name of any person who 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. 1887, c. 193, s. 227.

Punishment of Clerks, Assessors, etc., making fraudulent assessments, etc.

* * *

231. If a collector refuses or neglects to pay to the proper treasurer, or other person legally authorized to receive the same, the sums contained in his roll, or duly to account for the same as uncollected, the treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant, under his hand and seal,

Proceedings for compelling collectors to pay over moneys collected to the proper treasurer.

(m) It is the duty of the council to see that the collector has given a proper and sufficient bond. To ensure this due enquiry should be made concerning the financial standing of the sureties and it ought to be executed by the collector and sureties in the presence of some person appointed by the council to see that it is properly executed. In the case of Aldborough v. Yauch, not reported, one of the sureties escaped liability by showing that he had signed the bond upon condition that a certain other person would execute it also but who did not do so.

directed to the sheriff of the county or city (as the case may be), commanding him to levy of the goods, chattels, lands and tenements of the collector and his sureties, such sum as remains unpaid and unaccounted for, with costs, and to pay to the treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. (n) R. S. O. 1887, c. 193, s. 231.

* * *

Payment
of money
collected for
the Province.

240. All money assessed, levied and collected for the purpose of being paid to the Treasurer of the Province, or to any other public officer, for the public uses of the Province, or for any special purpose or use mentioned in the Act under which the same is raised, shall be assessed, levied and collected by, and accounted for and paid over, to the same persons, in the same manner, and at the same time, as taxes imposed on the same property for county, city or town purposes, and shall be deemed and taken to be moneys collected for the county, city or town, so far as to charge every collector, or treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of moneys assessed, levied and collected for the use of the county, city or town. R. S. O. 1887, c. 193, s. 240.

How money
collected
for county
purposes
to be paid
over.

241. All moneys collected for county purposes, or for any of the purposes mentioned in the preceding section, shall be payable by the collector to the township, town or village treasurer, and by him to the county treasurer; and the corporation of the township, town or village shall be responsible therefor to the corporation of the county. R. S. O. 1887, c. 193, s. 241.

Collectors or
treasurers
bound to
account for
all moneys
collected by
them.

242. Any bond or security given by the collector or treasurer to the corporation of the township, town or village, that he will account for and pay over all moneys collected or received by him, shall apply to all moneys collected or received for county purposes, or for any of the purposes mentioned in section 240. R. S. O. 1887, c. 193, s. 242.

TAX ON DOGS.

R. S. O. 1887
c. 214, s. 5.

5. The collector's roll of the municipality shall contain the name of every person entered on the assessment roll as

(n) The remedy provided by this section may be resorted to after the time fixed for returning the roll, and while the collector has the roll, but the warrant cannot issue until after 20 days from demand; *Charlesworth v. Ward*, 31 U. C. Q. B 94.

the owner, possessor or keeper of any dog with the tax herein imposed, in a separate column; and the collector shall proceed to collect the same, and at the same time and with the like authority, and make returns to the treasurer of the municipality, in the same manner, and subject to the same liabilities in all respects for paying over the same to the treasurer, as in the case of other taxes levied in the municipality. R. S. O. 1887, c. 214, s. 5; 53 Vic. c. 62, s. 4.

Tax entered
on Collector's
Roll

6. In cases where parties have been assessed for dogs, and the collector has failed to collect the taxes authorized by this Act, he shall report the same under oath to any Justice of the Peace, and such Justice shall, by an order under his hand and seal, to be served by any duly qualified constable, require such dogs to be destroyed by the owners, possessors or harbourers thereof; and in case any collector neglects to make the aforesaid report within the time required for paying over the taxes levied in the municipality, he shall be liable to a penalty of \$10 and costs, to be recovered in the same manner as provided in section 15 of this Act. (c) R. S. O. 1887, c. 214, s. 6; 53 Vic., c. 62, s. 5.

Proceedings
where Collector
has failed to
collect taxes
from parties
assessed.

Penalty.

(o) Section 15 above referred to provides for summary proceedings before a justice of the peace on information and complaint before such justice, in the manner provided for summary convictions before justices of the peace and appeals to general sessions.

“A”

Sec. 12 (a).

"B."

Sec. 124.

E. F., Collector.

"C"
TAX NOTICE.
Section 123.



PRESENT THIS NOTICE WHEN PAYING TAXES.

AFTER 15 DAYS' NOTICE, UNPAID TAXES ARE LIABLE TO BE DISTRAINED FOR PAYMENT THEREOF.

NO. ON ROLL.....

18

TO The Municipal Corporation of..... DR.

FOR AMOUNT OF TAXES IMPOSED FOR 18

LOT	CONCESSION OR STREET	ACRES
-----	----------------------	-------

.....	\$
.....	\$
INCOME AND PERSONAL PROPERTY.....	\$

TOTAL ASSESSED VALUE \$.....

1.—For County Purposes,	Mills	\$
2.—For Township, Town or Village Purposes,	Mills
3.—For.....	
4.—For.....	
5.—For.....	
6.—For Dog Tax,
7.—For Arrears of Taxes,
8.—For General Public School Rate,	Mills
9.—For School Rate in S. S. No.....	Mills
10.—For School Rate in S. S. No.....	Mills

TOTAL TAXES,

Received Payment,

.....Collector.

STATEMENT AND DEMAND TO NON-RESIDENTS

TO BE APPENDED TO TAX NOTICE.

Section 125.

As collector of taxes for the municipality of.....
I hereby demand payment of \$being the taxes payable by
you to the said municipality in respect of the above property.

A. B., Collector.

P. O. Address.....

EXEMPTION FROM DISTRESS "D."

Sec. 124.

Under chapter 64 R. S. O. 1887, the following goods and chattels are exempt from seizure under execution :

1. The bed, bedding and bedsteads (including a cradle), in ordinary use by the debtor and his family ;
 2. The necessary and ordinary wearing apparel of the debtor and his family ;
 3. One cooking stove with pipes and furnishings, one other heating stove with pipes, one crane and its appendages, one pair of andirons, one set of cooking utensils, one pair of tongs and shovel, one coal scuttle, one lamp, one table, six chairs, one washstand with furnishings, six towels, one looking glass, one hair brush, one comb, one bureau, one clothes press, one clock, one carpet, one cupboard, one broom, twelve knives, twelve forks, twelve plates, twelve tea cups, twelve saucers, one sugar basin, one milk jug, one tea pot, twelve spoons, two pails, one wash tub, one scrubbing brush, one blacking brush, one wash board, three smoothing irons, all spinning wheels and weaving looms in domestic use, one sewing machine and attachments in domestic use, thirty volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use, the articles in this sub-division enumerated, not exceeding in value the sum of \$150 ;
 4. All necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of \$40 ;
 5. One cow, six sheep, four hogs, and twelve hens, in all not exceeding the value of \$75, and food therefor for thirty days, and one dog ;
 6. Tools and implements of or chattels ordinarily used in the debtor's occupation, to the value of \$100 ;
 7. Bees reared and kept in hives to the extent of fifteen hives.
- 50 V. c. 10, s. 1.

BAILIFF'S FEES. "E."

Sec. 124 (b).

Enforcing every writ of execution, or summons in replevin, or warrant of attachment, or warrant against the body, each :

Where claim does not exceed \$20.....	50
Where claim exceeds \$20, and does not exceed \$60....	75
Where claim exceeds \$60.....	1 00
Every mile necessarily travelled to serve summons, or process or other necessary papers, or in going to replevy goods, or to seize on attachment, or in going to seize on a writ of execution, where money paid on demand, or made on execution, or case settled after seizure.....	12
Every schedule of property seized, attached or replevied, including affidavit of appraisal, when necessary :	
Not exceeding \$20.....	30
Exceeding \$20, and not exceeding \$60.....	50
Exceeding \$60.....	75

Every bond, when necessary, when prepared by the bailiff, including affidavits of justification and of execution..... 50

Every notice of sale, not exceeding three, under execution or under attachment, each..... 15

Reasonable allowances and disbursements, necessarily incurred in the care and removal of property:

A. If a bailiff removes property seized, he is entitled to the necessary disbursements in addition to the fees for seizure and mileage.

B. If he takes a bond, then to 50 cents, instead of disbursements, for removal of property.

C. If assistance is necessary in the seizure, or securing, or removal, or retaining of property, the bailiff is entitled to the disbursements for such assistance.

If execution, or process in attachment in the nature of execution be satisfied, in whole or in part, after seizure and before sale, whether by action of the parties or otherwise, the bailiff shall be entitled to charge and receive 3 per cent. on the amount directed to be levied, or on the amount of the value of the property seized, whichever shall be the lesser amount.

Poundage on executions, and on attachments in the nature of executions, 5 per cent., exclusive of mileage for going to seize and sell, upon the amount realized from property necessarily sold. The property must be necessarily sold.

FEEES TO APPRAISERS.

To each appraiser, 50 cents per day, during the time actually employed in appraising goods, to be paid in the first instance by plaintiff, and allowed in the costs of the cause.

FEEES IN SUITS UNDER \$10.

For all services rendered in serving summons and making return, and any other service that may be necessary, before judgment is entered by the clerk or pronounced by the judge, mileage excepted..... 40

For enforcing execution, schedule of property seized or attached, bond, where necessary, and all other necessary acts done by him, after seizure, mileage excepted, if money made, or case settled after levy..... 1.00

(Necessary disbursements incurred in the care and removal of property shall be allowed, to be first allowed by the clerk, subject to the approval of the judge.)

AFFIDAVIT TO DESTRAIN BEFORE EXPIRY OF 14 DAYS. "F."

Section 124 (2)

I, A. B. collector of taxes for the municipality of..... make oath and say:

1. That I did on the.....day of.....189 , demand from C. D. the sum of \$....., being the taxes payable by him in respect of (describe property)....., (or that I did on the.....day of.....189 , deliver to him, or leave at his usual place of residence etc., as the case may be), a notice specifying the amount of taxes payable by him.

2. That \$..... being the amount of said taxes still remains unpaid, and that I have good reason to believe that the said C. D. is about to remove his goods and chattels out of the said municipality of

Sworn before me, etc.....

Mayor or Reeve of..... (as the case may be).

ADVERTISEMENT. "G."

Sec. 127.

Notice is hereby given that under and by virtue of a warrant from A. B., collector of taxes for the municipality of..... and to me directed, I have seized and taken the following property (*here describe property*) to satisfy the sum of \$....., being the taxes payable by the said A. B. to the said municipality for the year 189 , in respect of (*here state the property*) together with costs, all of which said property will be sold by public auction at..... on the.....day of.....189 , at the hour of....o'clock in thenoon.

Dated this.....day of.....189 .

C. D., Bailiff,

ACCOUNT AND OATH. "H"

Sec. 135.

Collector's account of all taxes remaining due on the collector's roll for the municipality of.....for the year 189 .

Dated the.....day of.....189,....., Collector.

No. on Roll	Name of person assessed.	Concession Street or Block.	Lot.	Acres.	Total Value.	REMARKS.
						Non-Resident. No property to des- train. Instructed by Coun- cil not to Collect.

OATH OF COLLECTOR.

(Section 136)

I,, of the.....of... , in the county of....., collector for the municipality of the..... of.....in said county for the year 189 , make oath and say .

That the sums mentioned in the above account remain unpaid, and that I have not, upon diligent inquiry, been able to discover sufficient goods or chattels belonging to or in possession of the persons charged with, or liable to pay such sums, or on the premises belonging to, or in the possession of any occupant thereof, whereon I could levy the same or any part thereof.

Sworn before me at the..... of....., in the county of this.....day of....., 1890.

.....
Treasurer Municipality of.....

N.B.—Upon making the above oath the Collector should be credited with amount not realized.

"J."

COLLECTOR'S BOND.

Municipality of.....

Know all men by these presents, that we.....collector of rates for the.....of.....in the county of.of theof.....are jointly and severally held and firmly bound unto the corporation of the.....of.....in the penal sum of.... dollars, or lawful money of Canada, to be paid to the said corporation of the.....of.....and its successors, for which payment well and truly to be made we jointly and severally bind ourselves, our and each of our heirs, executors and administrators firmly by these presents.

Sealed with our seals, and dated this.....day of.....one thousand eight hundred and.....

The condition of this bond is such, that if the above boundenshall collect all rates and assessments of the.....of.....for the year one thousand eight hundred and for which he has been appointed, and shall pay over or cause to be paid over to the treasurer of the said.....of.....once (a).....from the time that he commences to collect said rates and assessments until the final return of the roll, the total amount collected during the preceding.....week, the last instalment of the moneys collected by him as aforesaid to be paid on or before the.....day of.....in the year one thousand eight hundred and.....or such other time as may be fixed by statute or by the council of said municipality, then the above bond or obligation to be void, otherwise to be and remain in full force and virtue.

(a) *In towns and villages* "once a week."
In townships "once every two weeks."

Signed, sealed and delivered }
in presence of }

[Seal.]

INDEX.

ACCOUNT.	PAGE.
Collector to deliver to treasurer of all taxes remaining due on roll.....	15
ACTION.	
When taxes recoverable by.....	14
ADVERTISEMENT.	
Six days' public notice of to be given....	12
Form of	24
To be posted up in at least three public places.....	12
AGENT.	
Collector may appoint in cities and towns to deliver notice	5
ASSIGNEE.	
Goods in hands of, liable only for taxes of assignor and taxes upon premises.....	10
BAILIFF.	
Collector may appoint to distrain.....	7
Entitled to same costs as those payable to Division Court	
Bailiffs	10
Tariff of costs chargeable by	22
BOND.	
To be given by Collector.....	16
Form of	25
CLERK.	
To deliver roll certified under his hand to Collector by first of October or other day prescribed by By-law....	
Collector to deliver account of unpaid taxes (b).....	4
COLLECTOR.	
Appointment and qualification of (a).....	3
To make declaration of office within 20 days after appointment (a).....	4
To hold office during pleasure of Council (a).....	3
To be ex officio collector for Provisional Council (a).....	3
To collect rates to satisfy execution on a precept from Sheriff (a).....	4
Not to accept promissory notes or securities (b).....	4
To demand payment of taxes	5
May deliver notice in cities and towns and in other places where there is a By-law instead of demand.....	5

	PAGE
To enter date of making demand or giving notice on roll..	5
Agent may deliver notice and make entry of in cities and towns	5
Cannot appoint agent in other places, to give notice (g)....	6
Demand may be made by at any time after receipt of roll	7
Distress by may be made after 14 days after demand or notice or day appointed for payment by By-law which ever shall last happen.....	7
May sell after six days' public notice.....	12
To transmit by post, statement and demand to non-residents	11
Surplus of sale to be paid to person in whose possession goods were if claim admitted.....	13
Surplus where claim contested to be paid by to treasurer of municipality.....	13
To return roll not later than day appointed by council....	14
To deliver account of taxes remaining due on roll to treasurer and clerk.....	15
To make oath before treasurer of unpaid taxes.....	16
Goods of may be levied on by Sheriff for refusal to pay over moneys	17
To make entries on roll of taxes not paid.....	16
COMMISSION AGENT.	
Goods in possession of for storing or sale not liable to seizure	10
COSTS.	
Of distress same as Division Court Bailiff's.....	10
COUNCIL.	
When to authorize, levy and collection of taxes.....	15
To fix time for return of roll.....	15
COUNTY.	
Shall include cities.....	11
COUNTY TREASURER.	
May issue warrant to collect arrears.....	16
DISTRESS.	
Exemptions from.....	22
May be made on goods in possession of person who ought to pay the taxes anywhere in the county	09
Of goods of any other occupant.....	09
In case of non-residents can only be made upon the premises.....	12
Provision as to goods in hands of assignee or liquidator or warehouseman for sale.....	10
Form of warrant for.....	20
Notice of sale to be given	12
Surplus after sale to be returned to occupant	13
When to be returned to claimant.....	13
When to be returned to treasurer	13
When to be returned to party in possession of goods ...	13
Only sufficient goods to satisfy to be seized (k)	8
DOGS.	
Taxes on to be collected.....	18
Collector to report unpaid dog tax to Justice of Peace....	19

	PAGE
EXECUTION.	
Tariff of costs of	22
Collector to levy rates to satisfy (a)	4
EXEMPTION.	
Goods exempt from execution, exempt from taxes unless property of person actually assessed for premises and whose name also appears on roll for year, as liable therefor (ll)	8
Goods in possession of assignee of liquidator or warehouseman for storing or sale only	10
List of exempted goods	22
FIXTURES.	
Cannot be distrained (m)	8
FORMS.	
Declaration of office	20
Distress warrant	20
Affidavit to distrain before expiration of 14 days	23
Tax notice	21
Statement and demand to non-resident	21
Account of unpaid taxes and oath	24
Collector's Bond	25
GOODS AND CHATTELS.	
Of person who ought to pay may be seized anywhere in the county	9
In case of non-residents can be seized on lands of only	12
LIQUIDATOR.	
Goods in hands of exempt under certain circumstances	10
NOTICE.	
Non residents	11
NOTICE OF SALE.	
Six days' public notice to be given	12
To be posted up in at least three public places	12
PENALTY.	
Collector liable from \$8 to \$80 for not making declaration of office (a)	4
Collector when liable to attachment (a)	4
Collector liable to \$100 for refusing or neglecting any duty under The Assessment Act	17
Collector liable to fine not exceeding \$200 for fraudulent collection	17
Collector liable to \$10 and costs for failure to report uncollected taxes on dogs	19
ROLL.	
To be delivered with certificate to Collector on or before the first October (b)	4
Date of demand or notice to be entered on	5
Entry on prima facie evidence of demand	5
Entry to be made on of notices posted to non residents	11
When to be returned by collector	14-15
Collector to make oath as to truth of entries	14
City Councils may fix time for returning and enlarge same	15
Entry of insufficient distress to be made on	16

SALE.

Advertisement of to be posted up in at least three public places	12
Six days' public notice of to be given	12
To be by public auction	12

SEIZURE.

Cannot ordinarily be made until after 14 days from notice or demand	11
May be made before expiry of 14 days if goods about to be removed out of municipality	11
Of goods of person who ought to pay may be made anywhere in the county	9
In case of non-residents can be made on lands only	12

TAXES.

When due	7
Fourteen days demand or notice for required before seizure	11
To be paid to proper treasurer	14-18
When percentage may be added to (u)	6
May be paid by instalments when (u)	6
Who ought to pay the same (n)	9
When they may be seized before expiry of 14 days	10
When to be paid over by collector	14

TREASURER.

Returns to be made to by collector	15
To credit collector with taxes not realized	16

WAREHOUSEMAN.

Goods in possession for storing or sale exempt	10
--	----

