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THE

Collector's Guide

CONTAINING THOSE PORTIONS OF THE ASSESSMENT AND OTHER
ACTS RELATING TO THE APPOINTMENT AND DUTIES
OF COLLECTORS OF TAXES IN ONTARIO,
WITH NOTES OF THE MORE
IMPORTANT DECID-
ED CASES.

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Collectors and Their Duties.

THE MUNICIPAL ACT.

R. S. O., 1897, Chap. 223.

295.—(1) The council of every city, town, township, and village, shall as soon as may be convenient after the annual election, appoint as many assessors and collectors for the municipality as they may think necessary, (a) 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. 55 V. c. 42, s. 254 (1); 55 V. c. 48, s. 12 (1).

Assessors and
collectors.
appointment
of.

(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. 55 V. c. 48, s. 12 (2); c. 49, s. 27.

(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. 55 V. c. 48, s. 13.

(4) The same person may, in a city, town, or township, be appointed assessor, or collector for more than one ward or polling subdivision. 55 V. c. 42, s. 254 (2).

(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 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. 55 V. c. 42, s. 254, (3). R. S. O., 1897, c. 223, s. 295.

(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; Mun. Act; secs. 312 and 315. For form of declaration see Appendix "A."

Municipal councils may direct that taxes be payable at the treasurer's office, but cannot dispense with the appointment and services of the collector.

Collectors are required to make a declaration of office within 20 days after knowledge of appointment under a penalty of from \$8 to \$80; Mun. Act. sec. 319.

IN CITIES AND TOWNS.

Appointment
and duties of
collectors in
cities and
towns.

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

(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. R. S. O., 1897, c. 223, s. 296.

Collectors for
provisional
council.

297. The collectors of the several townships in a junior county of a union of counties shall, *ex-officio*, be collectors in such townships for the provisional council, and the collectors shall pay over to the provisional treasurer the money which they collect under any by-law of the provisional council. R. S. O., 1897, c. 223, s. 297.

Payments.

298. The money so collected shall be deemed the money of the union so far as may be necessary to make the collectors and their sureties responsible therefor to the union ; and in case the corporation of the union receives the same, such corporation shall immediately pay the amount to the provisional treasurer, retaining the expenses of collection. R. S. O., 1897, c. 223, s. 298.

Moneys, how
to be disposed
of.

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, a 1 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-secs. 1 (c) and 2, sec. 471.

THE ASSESSMENT ACT.

R. S. O., 1897, Chap. 224.

133. The collector, upon receiving his collection roll, shall proceed to collect the taxes therein mentioned. (b) R. S. O., 1897, c. 224, s. 133. Duties of collectors.

(b) Section 131 of the Assessment Act 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. 131 of The Assessment Act R. S. O., c. 224, 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 of December, 1856, to the 1st of 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.

In "*Caston v. Toronto*," 30 O. R. p. 16, it was held that where there is sufficient property available for distress on land assessed, during all the time the collector for the year has the roll, the taxes thereon cannot be legally returned to the treasurer and cannot be legally placed on the collector's roll for a subsequent year. It is not, however, sufficient to show that a taxpayer had property sufficient to pay the taxes while the collector had the roll in his hands. He cannot watch all the taxpayers in the municipality, but he is liable for taxes which he might have collected by reasonable diligence, but which, by reason of his negligence, having been left uncollected, have been lost.

Collectors to demand payment of rates.

134.—(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)

Particulars to be given on tax papers.

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

(3) In places other than cities and towns, he shall call at least once (ee) on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality in and for which such collector has been appointed, and shall demand payment of the taxes payable by such person, or if so empowered by by-law (f) of the municipality he shall leave (g) with the person

(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. Q. B. 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. 296.

(ee) A collector has no authority to make any charge for calling on a ratepayer the second time for his taxes, when he does not make a seizure.

(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 subsection 3 says that "he shall leave," while

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., 1897, c. 224, s. 134.

135.—(1) Subject to the provisions of section 60 (ii) of this Act in case a person neglects to pay his taxes for fourteen days (j) after Distress and sale by collector for taxes.

subsection (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 subsection. There is no authority for delivering tax notices through the post office. There is no excuse for a collector neglecting to follow the directions of an Act which lays down his duties as clearly as this Act does. He should make a proper demand in each case, otherwise the municipality may incur trouble and expense.

(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. 60, as amended by sec. 4 of the Assessment Amendment Act, 1899, referred to above, is as follows:

60.—(1) In cities, towns, townships or villages, the council may by by-law require the payment of taxes, including local improvement assessments, sewer rents and rates, and of other rents or rates payable as taxes, 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 provide that on the punctual payment of any instalment the time for payment of the remaining instalment or instalments shall be extended to a day or days to be named or may provide that in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable.

Requiring taxes to be paid into office of treasurer or collector.

Payment by instalments.

(2) The council may also by by-law allow a discount for the payment of such taxes or any class, or of any instalment thereof on or before a day or days therein named and may impose an additional percentage charge for non-payment of such taxes or any class of taxes or of any instalment thereof by a day or days named in such by-law, provided that no greater percentage charge than five per cent. shall be imposed on any instalment of taxes or on the aggregate amount of taxes; and such additional percentage charge shall be added to such unpaid tax or assessment rent or rate or instalment thereof and shall be collected by the collector or otherwise, as if the same had been originally imposed and formed part of such unpaid tax or assessment, rent or rate, or instalment thereof.

Discount on punctual payment of taxes.

(3) Such discount or additional charge may by the by-law be provided for on the basis of a sliding scale corresponding with the length of time default is made, but so as not in the aggregate percentage to exceed five per cent. as *foreaid*.

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 exemptions provided for by sub-section 2 of this section), levy the same with costs by distress,

On goods of
person assessed.

(i) Upon the goods and chattels (l), wherever found, within the county in which the local municipality lies, belonging to or in the possession of the person who is actually assessed for the premises, and whose name appears upon the collector's roll for the year as liable therefor (and who is hereinafter called the "person assessed");

Notice as to
time and mode
of payment.

(4) In case a by-law shall be passed providing for payment by instalments or allowing any such discount or imposing any such additional percentage charge, a notice shall be given in accordance with section 134 of this Act on which shall be written or printed a concise statement of the time and manner of payment and of the discount allowed or percentage charge imposed, if any, and at any time within fourteen days after such notice shall first have been given, in accordance with section 134 of this Act, any person may take advantage of the provisions of such by-law as to payment by instalments or with the discount allowed thereby, or without the additional percentage charge imposed thereby, as the case may be. R. S. O., 1897, c. 224, s. 60. 62 Vic., c. 27, s. 4.

(j) Except under the special circumstances stated in subsection (4) of section 135, 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 B. R. 122; *Buffalo & L. H. W. v. Brookbank*, Ib. 126; *Hanna v. Johnson*, 3 O. R. 100. Sunday is included in reckoning the time under this subsection; *McLean v. Pinkerton*, 7 A. R. 490, but where the time limited expires on a holiday, see subsections 16 and 17, of section 8, cap. 1, R. S. O., 1897.

(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. 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) 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

Provided, however, that in cities and towns and any other local municipalities having power to sell lands for the non-payment of taxes, no distress for the taxes upon each parcel of vacant property shall be made upon the goods or chattels of the owner in any part of the county other than upon such property, and this provision shall be retroactive so as to apply to the returns for arrears of taxes for the years 1896 and 1897. 62 V. c. 27, s. 10, sub. s. 1.

Property liable to distress for arrears.

(2) Upon the interest of the person assessed in any goods on the premises, including his interest in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition ;

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

Goods of owner.

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

Certain goods on the premises though claimed adversely to person assessed or the owner.

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

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

part of the fabric as an integral portion of the architectural design, or as in the case of a millstone, 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 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 ; Consumers Gas Co. v. Toronto. 27 S. C. R., 453 ; 23 A. R. 551 ; 26 O. R. 722.

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

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

Not on goods of third persons where person assessed or owner not in possession.

Evidence of ownership.

Not on goods in possession of warehouse man.

Not on goods in possession of assignee or liquidator.

Provided nevertheless that no goods which are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the same, or of selling the same upon commission or as agent shall be levied upon or sold for such taxes; and provided further that goods in the hands of an assignee for the benefit of creditors, or in the hands of a liquidator under a winding up order shall be liable only for the taxes of the assignor or of the company which is being wound up, and for 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 while the goods remain thereon. 58 V. c. 47, s. 7. (m).

Goods exempt under execution when exempt from distress for taxes.

(2) The goods and chattels exempt by law from seizure under execution (n) shall not be liable to seizure by distress unless they are the property of the person who is actually assessed for the premises, and whose name also appears upon the collector's roll for the year as liable therefor. R. S. O., c. 143, s. 27 (1).

Exemption to be claimed.

(3) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption. R. S. O., 1887, c. 143, s. 27 (2).

(m) This proviso was no doubt passed in consequence of the decision in *Norris v. Toronto*. 24 O. R., 297. 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.

(n) For a list of articles exempt from execution see Appendix "D."

(4) If at any time after demand has been made, or notice served pursuant to such by-law as aforesaid, 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 believe that any person in whose hands goods and chattels are subject to distress under the preceding provisions, is about to remove such 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. (o).

Levy of taxes
under warrant

(5) A city shall for the purposes of this section be deemed to be within the county of which it forms judicially a part. 55 V. c. 48, s. 124, (2, 3); c. 49, s. 10(2). (p).

(6) The costs chargeable in respect of any such distress and levy shall be those payable to bailiffs under the Division Courts Act. (q).

Rev. Stat., c.
60.

(7) No person shall make any charge for anything in connection with any such distress or levy unless such thing has been actually done.

(8) In case any person offends against the provisions of sub-section 7 of this section or levies any greater sum in respect of such costs than is authorized by sub-section 6 of this section, the like proceedings may be taken against such person, by the person aggrieved, as may be taken by the party aggrieved in the cases provided for by sections 2 to 7 inclusive of the Act respecting the costs of distress or seizure of chattels, and all the provisions of the said sections shall apply as fully as if enacted *mutatis mutandis* in this Act. R. S. O., 1897, c. 224, s. (135).

Rev. Stat., c.
75.

(o) 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."

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

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

Distress for taxes on personal property.

135 a—(1) Subject to the provisions of section 60 of this Act in case a person assessed in respect of personal estate or personal property neglects to pay the taxes for fourteen days, after demand or after notice served pursuant to a by-law aforesaid, or in the case of cities or towns after demand and notice as aforesaid, the collector may by himself or his agent (subject to the exemptions provided for in sub-section 2 of this section) levy the same with costs by distress,

(1) Upon the goods and chattels of the person assessed wherever found within the county in which the local municipality lies for judicial purposes ;

(2) Upon the interest of the person assessed in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any conditions ;

(3) Upon any goods and chattels in the possession of the person assessed where title to the same is claimed in any of the ways defined by sub-clauses a, b, c, and d, of section 135 and in applying said sub-clauses they shall be read with the words "owner of," and the words "on the premises" omitted therefrom. 62 Vic. c. 27, s. 11.

Application of s. 135, sub.-s. 4 to 8.

(2) Subsections 2 to 8, of the said section 135 shall apply to goods and chattels liable to distress under this section and to proceedings taken under this section.

Proceedings in case of non-residents.

136. If any person whose name appears on the roll is not resident within the municipality, (r) 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 (s) of the

(r) "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 section 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. (s) For form of statement and demand see Appendix "C."

taxes charged against him in the roll, and shall at the time of such transmission enter the date thereof in the roll, opposite the name of such person; and such entry shall be *prima facie* evidence 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., 1897, c. 224, s. 136.

137. 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, (t) may make distress of any goods and chattels (u) which he may find upon the land (v) in the same manner and subject to the same limitations as provided in section 135. R. S. O., 1897, c. 224, s. 137.

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

138. The collector shall, by advertisement (w) posted up in at least three public places in the township, village or ward wherein the

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

(t) 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 Blaquiere v. Becker*, 8 U. C. C. P. 167, that it was not a condition precedent, but as the act now stands it is so.

(u) Goods and chattels, see note (l) to Sec. 135.

(v) 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.

(w) 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*, 1b 484; *Lee v. Howes*, 30 U. C. Q. B. 292; *Conner v. Douglas*, 15 Grant 456; *Gibson v. Lovell*, 19 Grant 197, show that certain errors or defects in the advertisement of sale would not effect 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."

(x) 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.

(y) The collector ought not to adjourn the sale in the interests of the persons liable for the taxes. This section is emphatic in its language and says: "At the time named in the notice the collector or his agents shall sell at public auction," etc. There may be good reason in some cases to adjourn the sale in the interests of the municipality when there are no bidders and the property cannot be sold for want of buyers. If an adjournment be made, and it can be shown that the collector might have sold the goods on the day first appointed for the sale, and that by reason of an adjournment at the request of the parties, he was unable to sell, he would and ought to be responsible for any loss sustained.

sale of the goods and chattels distrained is to be made, give at least six days' (x) 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, (y) the collector or his agents shall sell at public auction (a) the goods and chattels distrained, or so much thereof as may be necessary. (b) R. S. O., 1897, c. 224, s. 138.

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

139 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., 1897, c. 224, s. 139.

or to admitted claimant.

140 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., 1897, c. 224, s. 140.

When the right to such surplus contested.

141 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., 1897, c. 224, s. 141.

Recovery of taxes by action.

142 If the taxes payable by any person cannot be recovered in any special manner provided by this Act, they may be recovered

(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 Fraud; See *Mingaye v. Corbett*, 14 U. C. C. P. 557.

(c) Under this section *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 v. 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 139. If the claim of the person for whose taxes the property was sold is admitted, the surplus must be paid to him, but 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 140.

with interest and costs, as a debt due to the local municipality, (f) in which case the production of 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. (g) R. S. O., 1897, c. 224, s. 142.

143. Where taxes are due upon any premises occupied by a tenant who is not liable to pay the same, the collector may give such tenant notice (h) in writing requiring him to pay to such collector the rent of such premises as it becomes due from time to time to the amount of the taxes due and unpaid and costs, and the collector shall have the same authority as the landlord of the premises would have to collect such rent by distress or otherwise for the amount of such unpaid taxes and costs; but nothing in this section contained shall prevent the recovery, in the manner provided by law for the collection of taxes, of any portion of such taxes which may remain unpaid after applying any payment so made. R. S. O., 1897, c. 224, s. 143. 59 V. c. 58, s. 8.

Paying rent to collector until taxes paid.

144. (1) 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 (subject, in towns, to the provisions of section 130) shall pay over to the treasurer the amount payable, 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 the statement and demand of taxes, required by sections 134 and 136 in each case, has been truly stated by him in the roll. (i)

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

(f) An action may be brought, in the name of the municipality, for the taxes due from a person assessed on the resident roll of the municipality and not residing therein, in the Division Court in which such person resides, if the amount is within the jurisdiction of such court.

(g) 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 distress, then section 100 (now 142) 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.

(h) For form of notice, see Appendix "H".

(i) 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.

Collectors of towns and villages to pay to treasurer weekly.

(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.

Collector of township to pay to treasurer every two weeks.

(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. (j) R. S. O., 1897, c. 224, s. 144.

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

145. (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. (k)

(2) No such resolution or authority shall alter or affect the duty of the collector to return his roll, nor shall, in any manner whatsoever, invalidate or otherwise affect the liability of the collector or his sureties. R. S. O., 1897, c. 224, s. 145.

In cities the council may fix the time for return of collectors' rolls.

146. The council of every city may, by by-law, fix the times for the return of the collectors' rolls and may make any enlargements of the same. (l) R. S. O., 1897, c. 224, s. 146.

Proceedings when taxes are unpaid and cannot be collected.

147. 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*

(j) When paying taxes to the treasurer of the municipality, the collector should always obtain the receipt of the former for the amount paid. All receipts so obtained should be retained by the collector for his protection for all time to come.

(k) 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. An exhaustive discussion of the questions arising under this and the preceding section will be found in an article entitled, "Return of Collectors' Roll—Collection of taxes", in the issue of the "THE MUNICIPAL WORLD" for June 1899, (page 96.)

(l) See note (k) to section 145.

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. (m) R. S. O., 1897, c. 224, s. 147.

Provided that the provision requiring the collector to furnish a duplicate of such return to the clerk of the municipality and that the clerk shall mail a notice to each person appearing on the roll with respect to whose land taxes appear to be in arrear for that year, shall not apply to a city, but in lieu thereof, the treasurer shall give the notice hereinbefore directed to be given by the clerk. 61 V. c. 25, s. (2).

148. 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. (n) R. S. O., 1897, c. 224, s. 148.

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

Provided that in cities and towns and any other local municipalities having power to sell lands for non-payment of taxes the collector of taxes may qualify the oath to be made by him by shewing that, in respect of vacant land, he has not attempted to distrain upon the goods and chattels of the owner, in any other part of the county than upon such vacant land. 62 Vic. c. 27, s. 10, sub-s. 2.

* * *

(m) By Sec. 144, 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, subject to the proviso, in the case of a city municipality, added to this section by 61 Vic. c. 25, s. 2 (2). 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 255.

For collector's account see Appendix Form "I"

(n) 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 if not realized. For collector's oath see Appendix Form "I."

When there is not sufficient distress on such lands.

156. If there is not sufficient distress upon any of the occupied lands or lands built upon, 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., 1897, c. 224, s. 156. 62 Vic., c. 27, s. 11, s. s. 5.

* * *

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

171. 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 135 to 141 inclusive of this Act with respect to distresses made by collectors. R. S. O., 1897, c. 224, s. 171.

* * *

RESPONSIBILITY OF OFFICERS.

Security by treasurers and collectors.

247. 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. (o) R. S. O., 1897, c. 224, s. 247.

Bond with sureties.

248. 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. (p) R. S. O., 1897, c. 224, s. 248.

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

249. 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,

(o) See note (a) to section 295 Municipal Act. For Bond see Appendix, Form "J".

(p) It is the duty of the council to see that the collector has given a proper and sufficient bond. To ensure this due inquiry 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.

forfeit to Her Majesty such sum as the Court may order and adjudge, not exceeding \$100. R. S. O., 1897, c. 224, s. 249.

* * *

251. 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 goal 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.

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

* * *

255. 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, 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. (q) R. S. O., 1897, c. 224, s. 255.

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

* * *

264. 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., 1897, c. 224, s. 264.

Payment of money collected for the Province.

(q) 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.

How money collected for county purposes to be paid over.

265. 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., 1897, c. 224, s. 265.

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

266. 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 264. R. S. O., 1897, c. 224, s. 266.

* * *

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

R. S. O., 1897, c. 225.

The Collector, his returns and powers.

52. The council (*i. e., of every municipality in any of the districts mentioned in the Act*) shall, by by-law, fix the time for the collector to make his return, and the collector shall have the same powers as are conferred on collectors by the Assessment Act. R. S. O., 1897, c. 225, s. 52.

* * *

TAX ON DOGS.

R. S. O., 1897, c. 271, s. 5.

Tax entered on Collector's Roll.

5. The collector's roll of the municipality shall contain the name of every person entered on the assessment roll as the owner, possessor or keeper of any dog with the tax hereby 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., 1897, c. 271, s. 5 ; 53 Vic. c. 62, s. 4.

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

6. In cases where persons 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 harborers thereof, or by a constable, and for the purpose of carrying out the said order, any constable

may enter on the premises of the owner, possessor, or harbinger of the dog, ordered to be destroyed, and destroy such dog; 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. (r) R. S. O., 1897, c. 271, s. 6; 53 Vic., c. 62, s. 5. Penalty.

* * *

THE PUBLIC SCHOOLS' ACT.

R. S. O., 1897, Chap. 292.

28. (1) The trustees may appoint some fit and proper person, or one of themselves, to collect the rates imposed by them upon the ratepapers of their school section, or the sums which the inhabitants or others may have subscribed, or a rate-bill imposed on any person; and may pay to such collector at the rate of not less than five, or more than ten per centum on the moneys collected by him; and every collector shall give such security as is satisfactory to the trustees which security shall be lodged for safe keeping with the inspector by the trustees. Appointment and duties of school collector.

(2) Every collector shall have the same powers in collecting the school rate, rate-bill, or subscriptions, and shall be under the same liabilities and obligations, and proceed in the same manner in the school section or township, as a township collector in collecting Powers and liabilities of school collector.

(r) 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.

The collector can distrain the goods and chattels of a person liable for dog-tax under the provision of this Act. If a ratepayer (as sometimes happens) pays or tenders the collector his taxes, excepting thereout the dog-tax, the collector is not bound to accept it. He has the right to insist on payment of the whole amount. If a ratepayer should pay the collector the taxes on the property only, the collector may distrain for the dog tax.

It often happens that a person who is neither the owner, tenant nor occupant of any property in his municipality, is the owner of a dog. This person is placed on the assessment roll as a manhood franchise voter, and is therein assessed for his dog. People of this kind seldom have any property that can be distrained by the collector to satisfy the amount of the dog tax. If the owner or any other on his behalf does not pay the tax on the dog at the time when demanded, or a reasonable time thereafter, it is the imperative duty of the collector to proceed against the delinquent as provided in this section. He should pursue a similar course in cases where parties rent premises from landlords who have agreed to pay the taxes, and the tenant's dog is entered on the assessment roll, against the premises, on the tenant and landlord making default in the payment of the tax on the dog.

rates in his township, as provided in the Municipal and Assessment Acts from time to time in force. (s) 59 V. c. 70, s. 28. R. S. O., 1897, c. 292, s. 28.

* * *

COLLECTOR'S DUTIES AS TO DEFAULTERS' LISTS.

Municipal Act, R. S. O., 1897, Chap. 223.

Preparation
list of
defaulters.

137. (1) On or before the last Monday in December the treasurer of each local municipality shall, if the collector's roll has been returned to him, prepare and verify on oath, or, if the collector's roll has not been so returned, the collector shall prepare and verify on oath, a correct alphabetical list of—

(a) All persons who, being on the voters' list (that is to say, the first and second parts thereof) in respect of their income only, have not paid their municipal taxes on such income on or before the 14th day of December preceding the election; and,

(b) (In municipalities which have passed by-laws under subsection 1 of section 535 of this Act), all persons on the voters' list (that is to say, the first and second parts thereof, who have been assessed for real property, but have not paid their municipal taxes on such property on or before the 14th day of December preceding the election.

List to be made
for each polling
sub-
division.
Certified
copies to be
furnished.

(2) Where a municipality is divided into polling sub-divisions, such a defaulters' list shall be made for each polling sub-division.

(3) The person preparing the said defaulters' lists, shall furnish to all persons applying for the same, certified copies thereof, and of the affidavit verifying the same in the same manner and for the same compensation as copies of the voters' list are to be furnished. R. S. O., 1897, c. 223, s. 137.

(s) All the forms required by the trustees and the collector, in carrying out the provisions of this section, can be obtained, on application at the office of the MUNICIPAL WORLD, St. Thomas, Ont.

APPENDIX

"A"

DECLARATION OF OFFICE.

Sec. 312, Municipal Act.

I, A. B., do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of collector, to which I have been appointed in this Township (*or as the case may be*), and that I have not received, and will not receive, any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office, and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the said Corporation save and except that arising out of my office or position as collector.

Declared before me at the
of of in the county
of this day
of A. D. 1

"B.

DISTRESS WARRANT.

Sec. 135.

PROVINCE OF ONTARIO
COUNTY OF
of
(City, Town, Township or
Village, as the case may be)
of
To wit:

To A. B. my Bailiff.

You are hereby authorized and required to distrain the goods and chattels of C. D., of &c., which you shall find on the premises of the said C. D., at &c., or any goods and chattels in his possession, wherever the same may be found, within the county of &c., for the sum of \$, &c., rated against him for taxes on the collector's roll of, &c., for the year, etc., and now in arrear and unpaid, and in default of payment of such arrears of taxes and the lawful costs of the said distress, to sell and dispose of the said distress according to law, for the recovery of the said arrears of taxes together with the said costs, and for your so doing this shall be your sufficient authority.

Given under my hand at
A. D. 1.

this day of
E. F., Collector.

"C"
TAX NOTICE.
 Section 134.



PRESENT THIS NOTICE WHEN PAYING TAXES.

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

NO. ON ROLL.....

to **The Municipal Corporation of**..... **DR.**

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 BE APPENDED TO TAX NOTICE.

Section 136.

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. 135.

Under chapter 77, R. S. O., 1897, 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 washtub, one scrubbing brush, one blacking brush, one washboard, 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 30 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. R. S. O., 1897, chap. 77, sec. 2.

BAILIFF'S FEES. " E. "

Sec. 135, sub. s. 6.

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 fifty 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 the 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.

FEEs 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.

FEEs 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 DISTRAIN BEFORE EXPIRY OF 14 DAYS. "F."

Section 135, Sub-Sec. 4.

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

1. That I did on the.... day of..... 1 , 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..... 1 , 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."

Section 138.

NOTICE OF SALE FOR TAXES.

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 1 , in respect of (*here state property*) together with costs, all of which said property will be sold by public auction at..... on the.....day of.....1 , at the hour of....o'clock in the..... noon.

Dated this.....day of.....1 ..

C. D., Bailiff.

COLLECTORS' NOTICE TO TENANT TO PAY RENT. "H."

Section 143.

To Mr.....

Take notice, That you are required to pay the rent of the premises occupied by you as tenant of.....to me, the undersigned, as it becomes due from time to time, to the amount of..... Dollars, the taxes due, and unpaid by the said.....and costs.

Dated this.....day of..... A. D. 1 ..

.....
Collector of the Municipality of.....

ACCOUNT AND OATH. "I."

Section 147.

Collector's account of all taxes remaining due on the collector's roll for the municipality of.....for the year 1 ..

Dated the.....day of.....1 .. Collector.

No. on Roll	Name of person assessed.	Concession, Street or Block.	Lot.	Acres.	Total Taxes.	REMARKS.
						Non-Resident. No property to destrain. Instructed by Council not to Collect.

OATH OF COLLECTOR.

Section 148.

I, of the of in the county of collector for the municipality of the of in said county for the year 1 .., 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. (In cities and towns and any other local municipalities having power to sell lands for non-payment of taxes the collector may qualify his oath by adding the following clause : "And that, in respect of vacant land, I have not attempted to distrain upon the goods and chattels of the owner in any other part of the county than upon such vacant land.")

Sworn before me at the of, in the county of, this day of, 1 ..

..... 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 the of are jointly and severally held and firmly bound unto the corporation of the of in the penal sum of dollars, of 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 hundred and

The condition of this bond is such, that if the above bounden shall collect all rates and assessments of the of for the year one thousand 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 on e (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 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.]

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