

COMPANY—WINDING UP—TAXES, DISTRESS FOR—INJUNCTION—(R.S.O., c. 129, s.s. 16, 17.)

In re Dry Docks Corporation of London, 39 Chy. D. 306, was an application by the liquidators of a company to restrain proceedings by distress to enforce the payment of municipal taxes which had become due for the current half year in respect of the Company's premises before the commencement of the winding up, but after a provisional liquidator had been appointed. Kay, J., held that the municipal authorities were not entitled to any priority in respect of the taxes, and ought to be restrained from proceeding by distress to collect them; but the Court of Appeal (Cotton, Fry and Lopes, L.JJ.) were of opinion that as the right of distress was defeated only by the appointment of a provisional liquidator, the case was one where, if leave to distrain had been applied for, it should have been granted, and that therefore an injunction could only be granted on the terms of the liquidators paying the taxes.

PRACTICE—EXAMINATION OF DEFENDANT FOR DISCOVERY.

In re Morgan, Owen v. Morgan, 39 Chy. D. 316, the plaintiff as executrix of Anne Morgan, sued the defendant as executor of Howel Morgan, alleging that Howel Morgan had received £6,000 in trust for Anne Morgan, had invested it in securities producing 5% per annum and applied the interest to his own purposes, and claiming payment of the £6,000 with interest. The defendant alleged ignorance of the matters alleged by the plaintiff and set up several alternative defences; (a) that Howel Morgan had not received the £6,000; (b) that if he had, he had paid it to Anne Morgan; (c) that if he received the £6,000, Anne Morgan had agreed that he should retain it for his own use as a gift from her; (d) that if he received it, Anne Morgan had agreed that he should retain it in satisfaction of a claim which he had against Anne Morgan; (e) that Anne Morgan was, at her death, indebted to Howel Morgan in a sum exceeding the £6,000. The plaintiff, for the purpose of discovery by interrogatory 18, asked the defendant to give particulars as to the way in which the £6,000 had been invested by Howel Morgan and at what rate of interest, and how the income had been disposed of; and by interrogatory 23, he asked whether the defendant was not the brother of Howel Morgan, and whether, during the period of the transactions referred to in the statement of claim, he had not lived with him and acted as his confidential agent with respect to his property and become acquainted with all his affairs. In answer to interrogatory 18 the defendant stated that Howel Morgan had invested the £6,000 and applied the income to his own purposes, and declined to answer further or to make any answer at all to interrogatory 23. North, J., ordered him to put in further answers to both interrogatories; but on appeal, the Court (Cotton, Fry and Lopes, L.JJ.) held that as the plaintiff was not seeking to follow the investments of the £6,000, the defendant was not bound to give particulars of the investments; but that as the defendant did not admit the receipt of 5% interest, he was bound to state the amount of interest which had been received, as that would enable the Court, at the hearing, in the event of