

fic taxes upon specific lots, it may be that the lien would still exist, notwithstanding the taking of notes, and would be only suspended; but the effect of a judgment for part of the debt, leaving the rest indistinguishable as to definite taxes or lots, is so to alter the situation as to put it beyond the power of the plaintiffs to realise in any other way than the one selected by them. Execution upon a judgment obtained gives a charge upon all the property of the debtor, and not only upon the specific lots covered by the taxes due in 1906 and 1907. The essence of the charge by assessment and of the lien under sec. 89 is, that it is specific upon each separate lot. The essence of the consolidation of the indebtedness by notes is, that the total is regarded as due by the company as a whole, and judgment for any part of it renders it impossible to say upon what lots and to what extent the remainder is or represents a specific charge or lien. The case in this respect seems to come within the words of Lord Watson in *Bank of Africa v. Salisbury Gold Mining Co.*, [1892] A.C. at p. 284, "a new arrangement incompatible with the retention of the lien," referred to in *In re Morris*, [1908] 1 K.B. 473.

With regard to the objections that in 1908-9 the collector was the same person as the clerk, and that there was therefore no person to make proper demand, I am unable to understand why, if the collector is at the same time the clerk, he is disabled from making a demand. No doubt, difficulties may occur, caused by the dual position; but this is not one.

It is also argued that in 1910, the assessor failed to make his affidavit as required by sec. 47 until after action brought; and that, consequently, the taxes were not due when sued for. I think this is answered, if it be the fact, by secs. 66 and 67 of the Assessment Act of 1904, and by sec. 409 of the Municipal Act, 1903 (sec. 300 in the present revision.)

In considering the individual assessments, sec. 22 of the Act of 1904, 4 Edw. VII. ch. 23, provides that (1) land "known to be subdivided" is to be "designated by the numbers or other designation of the subdivisions, with reference, where necessary, to the plan of survey thereof;" (2) land "not subdivided into lots" shall be "designated by its boundaries, or other intelligible description;" (3) each "subdivision" shall be assessed separately, and every parcel of land, "whether a whole subdivision or a portion thereof . . . in the separate occupation of any person, shall be separately assessed." The only other reference is to what is to appear in the collector's roll. . . .