

settlement is for a sum which will vindicate the law and will conserve the public interest.

Solicitor-General and E. L. Newcombe, Q.C., for Crown. Madore and Guerin, for defendants.

Province of Ontario.

HIGH COURT OF JUSTICE.

Street, J.] RE OTTAWA PORCELAIN & CARBON CO. [March 16.

Company—Liquidation—Taxes and water rates—Right to prove for—35 Vict., c. 80, ss. 11, 13 (o), 42 Vict., c. 78, s. 7 (o).

The right to prove a claim for taxes against an incorporated company in liquidation depends upon the right to maintain an action therefor, which right of action only exists when the taxes cannot be recovered in any special manner provided for by the Assessment Act, as, for example, by distress, or sale of land.

Where therefore a claim was made for arrears of taxes against a company in liquidation, and it was shown that before the date of the winding up order the taxes might have been, but were not recovered by distress, the claim was disallowed.

A Board of Water Commissioners by s. 11 of 35 Vict., c. 80 (o) were empowered to fix water rates payable by the owner or occupant of any house or land which were to be a charge thereon; and by s. 13 to make and enforce all necessary by-laws for the collection thereof, and for fixing the time or times and the places for payment, which, on default, was to be enforced by shutting off the water, suit at law, or distress and sale of the occupant's goods. The rights and powers of the water commissioners, including the right to pass necessary by-laws, were transferred to the municipal corporation of a city by 42 Vict., c. 78, and by s. 7 uncollected water rates were made a lien on the premises and made collectable by sale thereof. A by-law was duly passed by the corporation fixing the rates to be paid, and the company were from year to year duly assessed therefor:—

Held, reversing the judgment of the Local Master, that a corporate liability was imposed on the company to pay such rates and a claim therefor constituted, on which the corporation could prove as ordinary creditors.

Shepley, Q.C., for the corporation of Ottawa. C. J. R. Bethune, for the liquidator.