

From Co. J., Simcoe.] IN RE ORILLIA AND MATCHEDASH.

[Jan. 25.

Assessment and taxes—Exemptions—Property of municipality situate in another municipality.

Upon the proper construction of s. 7, sub. s. 7, of the Assessment Act, R.S.O. 1897, c. 224, providing that "the property belonging to any county or local municipality" shall be exempt from taxation, property acquired by a town corporation under a special Act, 62 Vict. c. 64 (O.), as amended by 2 Edw. VII. c. 53, situate in a neighbouring township, at a distance of 19 miles from the town, and consisting of land, buildings, machinery, and plant for the purpose of generating and transmitting electrical energy to the town for lighting, heating, manufacturing, and such other purposes and uses as might be found desirable, with power to distribute, sell, and dispose of such electrical power in the town and elsewhere within a radius of 25 miles, is exempt from taxation by the township corporation.

Judgment of Judge of County Court of Simcoe reversed.

D. Inglis Grant, for the town appellants. *Brokowski*, for the township respondents.

From Britton, J.]

IN RE ROSS AND DAVIES.

[Jan. 25.

Executor and administrator—Power of executor to sell lands—Payment of debts—Lands devised in fee—Executory devise over—Devolution of Estates Act, ss. 4, 9, 16—Trustee Act, ss. 18, 20.

A testatrix by her will gave to her daughter some personal effects and \$4,000 to be paid to the daughter by the son of the testatrix, and charged on property devised to the son; all the rest of her real and personal property she gave, devised, and bequeathed to the son, charged with the \$4,000. The will then directed that in case of the death of either the son or daughter without issue, the whole of the property and estate was to go to the survivor, and in case of the death of both without issue, to the brothers and sisters of the testatrix. The executors contracted to sell a part of the real estate to the appellant, the daughter being alive and having three children, the son alive and unmarried, and brothers and sisters being also in existence. At the time of the death of the testatrix, her estate, including the land which was the subject of the contract, was incumbered, and there were other debts.

Held, that the executors, even without the concurrence of the son and daughter, and a fortiori with their concurrence, could make a good title, either under the Devolution of Estates Act, R.S.O. 1897, c. 127, ss. 4, 9, 16, or under the Trustees Act, R.S.O. c. 129, s. 18. Sec. 9 of the former Act enables executors to sell for the payment of debts, and the power to sell is not qualified by s. 16. That section was intended to make it clear that executors had power to sell for the purpose of distribution where there were no debts as well as where there were debts; and the consent of the official guardian on behalf of infants, lunatics, and non-concurring heirs or