REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

B.C.] HIBBEN *v.* COLLISTER. [June 12.

Partnership — Construction of deed—Continuance after expiry of term—Deceased partner—Purchase of share—Discount—Goodwill.

A deed providing for a partnership during seven years from its date provided for purchase by the survivors of the share of a deceased partner witn a special provision that if one partner, K., should die, the value of his share should be subject to a discount of 20 per cent. After the seven years had expired the partners continued the business by verbal agreement for an indefinite period, and while it so continued K. died.

Held, varying the judgment of the Supreme Court of British Columbia, that even if the parties had not admitted that the business was continued under the terms of the partnership deed such terms would still govern as there was nothing in it repugnant to a partnership at will; that the surviving partners had, therefore, a right to purchase the share of K., and to be allowed the deduction of 20 per cent. therefrom as the deed provided; and that in the absence of any stipulation in the deed to the contrary the goodwill of the business and K.'s interest therein should be taken into account in the valuation to be made for such purpose. Appeal dismissed with costs.

Aylesworth, Q.C., for appellant. *Riddell*, Q.C., for respondent.

Ont.] CASTON *v.* CITY OF TORONTO. [June 12.

Assessment and taxes—Ontario Assessment Act, R.S.O. 1887, c. 193, s. 135—Imperative or directory—Failure to distrain—Enforcing payment in subsequent year.

The provisions of s. 135 of the Ontario Assessment Act, R.S.O. 1887 c. 193, in respect to taxes on the roll being uncollectable, and what the account of the collector in regard to the same shall show on delivery of the roll to the treasurer, and requiring the collector to furnish the clerk of the municipality with a copy of the account, are imperative.

Taxes on the roll not collected cannot be recovered by distress in a subsequent year, unless such arrears have accrued while the land in respect of which they were imposed was unoccupied.

Judgment of the Court of Appeal, 26 A.R. 459, 35 C.L.J. 495, affirming the judgment of a Division Court, 30 O.R. 16, 35 C.L.J. 27, affirmed.

Fullerton, Q.C., and *W. C. Chisholm*, for appellants. *J. W. McC 'lough*, for respondent.