

LENNOX, J.

OCTOBER 17TH, 1914.

RE CANADIAN CORDAGE AND MANUFACTURING CO.

FERGUSON'S CASE.

*Company—Winding-up—Contributory—Statute of Limitations
—Contract under Seal—Period of Limitation.*

Appeal by the liquidator of the company in a winding-up proceeding from the order of the Local Master at Peterborough, to whom the winding-up was referred, striking the name of Hugh Ferguson from the list of contributories.

S. T. Medd, for the liquidator.

J. E. L. Goodwill, for Ferguson.

LENNOX, J.:—No calls have ever been made by the company, but the question of calls has no bearing upon the matter in issue.

The liability or non-liability of Hugh Ferguson to be made a contributory is to be determined by the express terms of his contract; and by it the balance of his subscription for stock, \$400, became due on the 1st January, 1903.

In my opinion, the learned Local Master did not err in finding that the Statute of Limitations began to run on the 2nd January, 1903; but, with great respect, I am of opinion that he did err, as did counsel, in assuming that the limitation is six years. The fact that the contract is by specialty seems to have been overlooked; and on such a contract the time for enforcement is not six years but twenty years.

The order appealed from will be set aside, and an order issue directing that Hugh Ferguson be placed upon the list of contributories; but, as the point upon which the matter turns was not taken either upon the argument before me or in the Court below, the liquidator will have costs of the application against the contributory down to and including the order appealed from only, and will have his costs of the appeal out of the assets of the company.