act is very similar in its terms, but not so favorable to a contrary view. The hardship of holding that the rates only are liable would be much greater on persons who contract with the Commissioners than any inconvenience which may result to the Commissioners if they are made personally responsible. How can we touch the rates? A mandamus to the Commissioners to levy a rate will not give us the money. It may be there are sufficient funds without a fresh rate, and then a mandamus cannot go. The act of 10 Vict. c. 16. was passed to alter the law as laid down by *Horsley* v. *Bell*, but it only applies to acts where it is incorporated. And see Chitty on Cont. 257; *Bogg* v. *Pearse*, 10 C. B. 534. 2. The absence or dissent of the defendants made no difference. The 9th section of the act makes the majority binding on the minority: *Todd* v. *Emly*, 8 M. & W. 505, decided that a majority may bind personally a committee of a club, although the minority disapprove. [FITZGERALD, J.—That is a question of personal agency.] The act gives the majority a personal agency from the minority: *Doubleday* v. *Muskett*, 7 Bing. 110; *Fox* v. *Clifton*, 6 Bing. 776. 3. The act of opposing the bill was *intra vires*, *Reg.* v. *Town Council of Dublin*, 7 Ir. Jur. N. S. 317; *Bright* v. *North*, 2 Phillips, 216; *Cole* v. *Green*, 6 M. & G. 872. A public body has an implied right to take steps to preserve its existence. The proposed bill here would have abolished the present body and increased taxation.

Palles, Q. C., in reply.—The Commissioners are a corporation. It is not necessary to have express words to create a corporation: 10 Coke 30a. The words "successors," which occur in this act generally create a corporation by implication: *Conservators of River Tone* v. *Ash*, 10 B. & C. 349. They are also empowered to take lands as a corporation. There can be no personal liability here. From the constitution of this body the individuals composing it are constantly changing. On a change of this kind the duty of performing it may be cast on one class of persons, *i. e.*, the individuals who made the contract, and the power of performing it in another class, those actually in office. The remedy is against the rates, not a personal liability: *Reg* v *Norfolk (Sewer) Commissioners*, 15 Q. B. 549; *Bolton* v. *Guardians of Mallow*, 8 Ir. C. L. App. 9. But this act is clearly *ultra vires*. The 132nd section distinctly sets out the purposes for which the rates are liable, and they are to be liable for "no other purpose." The plaintiff can make no one liable except the persons who employed him.

To be continued.

ENGLISH REPORT.

PROBATE.

HALL v. HALL.

As regards the procuring the execution of a will, mere moral pressure, if it materially control the free exercise of volition on the part of the testator, amounts to undue influence, and a wife is no exception to this rule.

[16 W. R. 544, March 4, 1868.]

This was a trial before the court and a special jury. The plaintiff, Ann Hall, propounded the will of her late husband John Hall, and the defendant William Hall, the brother of the testator, pleaded "undue influence" on the part of the plaintiff.

The will gave everything to the wife. The property was between £15,000 and £20,000. The plaintiff had no children by the testator or by any other husband. The testator had at his death between twenty and thirty brothers, sisters, nephews and nieces, in comparatively straightened circumstances. He was on good terms with his relations. Several thousand pounds had come to the testator through the plaintiff.

The material evidence in support of the plea was that given by the attorney who drew the will, and the said attorney's wife. The attorney swore that at the time he drew the will he did so to produce peace between the plaintiff and the testator, and the witness felt then that the will would be set aside on the ground of undue influence if the circumstances came to be sifted. The evidence of the attorney and his wife also went to show the excitement of manner of the plaintiff in connection with the subject of the will; her abuse of the testator on the same subject; expressions of fear of the testator that his life was in danger if he did not make a will, leaving everything to her, and that he had determined to do so in consequence of the annoyance and pressure she was putting on him, as one instance of which the testator had mentioned the plaintiff's remaining out of bed all night because he would not make such a will as she desired.

The jury found against the will, and the Court pronounced accordingly, and condemned the unsuccessful plaintiff in costs.

The case is reported for the purpose of giving his Lordship's direction to the jury as to what constitutes undue influence.

Sir J. P. WILDE.—To make a good will a man must be a free agent. But all influences are not unlawful. Persuasion, appeals to the affections, ties of kindred, to a sentiment of gratitude for past services, or pity for future destitution, these are all legitimate, and may be fairly pressed on a testator. On the other hand, pressure of whatever character, whether acting on the fears or the hopes, if so asserted as to overpower the volition without convincing the judgment, is a species of restraint under which no valid will can be made. Importunity or threats such as the testator has not the courage to resist; moral command asserted and yielded for the sake of peace and quiet, or to escape from distress of mind or social discomfort; these, if carried to a degree in which the free play of the testator's judgment, discretion, or wishes is overborne, will constitute undue influence, though no force is either used or threatened. In a word, a testator may be led but not driven, and his will must be the offspring of his volition, and not that of another's.

CORRESPONDENCE.

The Insolvent Law of 1864—*Assignees.*

TO THE EDITORS OF THE CANADA LAW JOURNAL.

SIRS,—I have read with much interest the communication of your correspondent "SCARBORO'," on pages 47 and 48 of Vol. IV. N. S.,