

a loan which contract was not enforceable either in debt or by way of specific performance, but only in damages. And therefore the unpaid instalments did not constitute a debt. And he held that all debenture holders were entitled to a rateable distribution in proportion to the amounts actually advanced by them.

COMPANY—WINDING-UP—SURPLUS ASSETS—PAYMENT OF STATUTE BARRED DEBT AFTER OBJECTION BY SHAREHOLDERS—LIQUIDATOR.

*In re Fleetwood and D.E.L. & P. Syndicate* (1915 1 Ch. 486. In this case a liquidator having surplus assets in his hands had, notwithstanding the objection of shareholders to his so doing, paid certain statute barred debts of the company. Astbury, J., held that the payment was improper, but the recipients undertaking to refund the money, no order was made.

MALICIOUS PROSECUTION—DAMAGE NECESSARY TO SUPPORT ACTION FOR MALICIOUS PROSECUTION—PROCEEDINGS TO COMPEL ABATEMENT OF NUISANCE—DAMAGE TO REPUTATION.

In *Wiffen v. Bailey* (1915), 1 K.B. 600, the Court of Appeal. (Buckley, Phillimore, and Pickford, L.JJ.) have reversed the decision of Horridge, J. (1914) 2 K.B. 5 (noted ante vol. 50, p. 339). That learned judge held that the damage caused to the plaintiff's reputation by an unsuccessful proceeding to compel him to abate an alleged nuisance, was a sufficient ground for an action for malicious prosecution. The Court of Appeal were not able to agree to that, and thought that the proceedings in no way affected the fair fame of the plaintiff, and therefore that the action could not be maintained.