

just one, and the defendants properly held entitled to the goods. We may add that it has been expressly held in *Dominion Bank v. Oliver*, 17 O.R. 402, that a warehouse receipt taken for a part due debt is not valid.

CURRENT ENGLISH CASES.

COMPANY—DIVIDEND PAYABLE ONLY OUT OF PROFITS—DEPRECIATION OF CAPITAL, EFFECT OF, ON RIGHT TO DECLARE DIVIDENDS.

Wilmer v. McNamara, (1895) 2 Ch. 245; 13 R. June 127, was an action by a shareholder against a joint stock company to restrain the declaration of a dividend. By the articles of association no dividend was to be paid except out of profits. The property in which the capital of the company was authorized to be invested was of a wasting character, and, on taking the yearly accounts, it appeared that the assets of the company, including the good will, fell short of the paid-up capital by about £43,000; but the profit and loss account for the same year showed a profit to have been made of £5,816, which the company proposed to apply in payment of a dividend. The plaintiff contended that no dividend could be declared until the depreciation in the capital had been made good; but following *Verner v. General and Commercial Investment Trust*, (1894) 2 Ch. 239, Stirling, J., held that the dividend might lawfully be paid, and that the depreciation in the value of the good will of the business of a company is to be treated as a loss of "fixed" capital, and not of "floating or circulating capital."

COMPANY—WINDING UP—PROFITS EARNED BEFORE LIQUIDATION—UNDRAWN PROFITS—PREFERENCE SHAREHOLDERS—LOSS OF CAPITAL—COSTS OF LIQUIDATION—PRIORITY.

Bishop v. Smyrna & Cassaba Ry. Co., (1895) 2 Ch. 265; 13 R. July 159, is another case on a question of company law. At the time of a joint stock company going into voluntary winding up a sum was standing to the credit of its revenue account representing profits previously earned, but not distributed. The present action was brought by a preference shareholder claiming, on behalf of himself and others of the same class, that this sum should be applied in payment of a dividend to the preference shareholders, and not treated merely as ordinary assets in the liquidation. The contest was between the preference and ordi-