

RECENT DECISIONS.

any provisions of the special Act in the same manner as might have been done had the company been incorporated under the Joint Stock Companies Letters Patent Act. It also contains very convenient machinery for the voluntary winding up or partial winding up of joint stock companies. Up to the present time this could only be done by the company taking proceedings under the Joint Stock Companies Winding up Act of 1878. As these proceedings are unnecessarily cumbersome and expensive, where a company is in a perfectly solvent condition and has few if any creditors, the present Act gives a simple method by which in such cases a company may, by its own officers, divide its assets amongst the shareholders.

Chapter 20, "An Act to extend the application of the Fire Insurance Policy Act." The effect of this Act to extend the statutory conditions of Fire Insurance policies, to interim receipts, and to Mutual Insurance Companies.

We have only space to give the titles of the following Acts which contain very important provisions:—

Chapter 21, "An Act to provide for the crossing of railways by street drains and water mains."

Chapter 22, "An Act to provide for the establishment of free libraries."

Chapter 24, "An Act respecting market fees."

Chapter 25, "An Act to provide for the construction of water works by cities, towns and villages."

Chapter 26, "An Act to make further provision for the construction of drainage works by municipalities."

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A few cases still remain to be noticed in the lengthy number of L. R. Chy. Div. issued on Dec. 1.

MORTGAGE—WINDING UP.

In *in re Brown, Bayley & Dixon*, p. 649,

FRY, J., held that mortgagees having a right of distress to enforce payment of interest, will be allowed to distrain, after a winding up, for interest accrued while the liquidators were in possession, but not for arrears accrued before the winding up. He arrives at this result by balancing two principles which he says ought to govern the Court in granting or refusing leave to enter and distrain under such circumstances, viz.: (i.) that as far as possible the independent rights of independent persons ought to be respected; (ii.) that the Court will administer the assets of a company among all the creditors at the time of the winding up *pari passu*, and will, so far as is possible, not give any preference or priority between the various creditors. "Those," he says, "are the two principles to be considered. In their generality they are manifestly inconsistent. In my view they are to be reconciled by drawing the line at the date of the winding up." A mortgagee and a lessor, although in one sense independent persons, are nevertheless creditors of the company in respect of any amount due on the mortgage or on the lease at the date of the winding up, and, as such creditors, they ought, in my judgment, to have neither preference nor priority. In respect of any rights arising after the winding up by reason of the company or the liquidators remaining in possession of the demised or of the mortgaged premises, they ought, in my judgment, to be treated as independent persons, and if the company or the liquidator choose to remain in possession of the demised or mortgaged premises, they must so remain upon the terms and conditions of the instrument, just as any other person must observe those terms."

PARTNERSHIP—ESTOPPEL BY LAPSE OF TIME.

In *Rule v. Jewell*, p. 660, the shares of two of the partners in a cost-book mine were forfeited in June, 1874, for non-payment of calls. Now, in September, 1880, they brought an action, alleging that the shares had not been regularly forfeited, and claiming to be still