

mechanic's lien is a preferential claim under the Winding Up Act. *Re The Empire Brewing and Malting Co., Rourke & Cass'* claim 424

2. *Winding Up—Second petition—Costs.*—A creditor presenting a winding up petition, with notice of a former one, does so at his own risk as to costs, and can recover costs subsequently incurred, only if he can show that the first petition was presented *mala fide* or collusively. *Re The Manitoba Milling &c. Co.* 426

3. *Winding Up Act—Leave to withdraw claim and file another—Maritime lien.*—B. was master of a ship owned by a joint stock company, and navigating inland waters viz., Lake Winnipeg. The Company became insolvent, and winding up proceedings were taken. B., without the advice of counsel, filed a claim for wages under the winding up proceedings. In this claim he did not mention any security. He afterwards applied for leave to withdraw this claim and file another claiming a maritime lien upon the ship for the wages, and also for leave to proceed *in rem*, in the Exchequer Court to enforce the lien.

Held, that leave should be granted.

Held, also, that the costs of the application should be reserved until the suit in the Exchequer Court was disposed of. *Re Lake Winnipeg Transportation &c. Company, (Limited.) Bergman's Claim.* 463
See also, COSTS AND SECURITY FOR COSTS, 7.

CONSTITUTIONAL LAW.

Constitutional Law—Public Schools Act—Denominational

Schools—Right of Church of England thereto—Right or privilege by practice—Powers of Manitoba Legislature to make laws relating to Education—Ultra vires—

Waiver of Public Right.—The Province of Manitoba was admitted into the Canadian Confederation by virtue of the Manitoba Act, 33 Vic. c. 3, (D. 1870) and an Order in Council issued in pursuance thereof. Prior to the passage of said Act there was in the Territory a number of effective schools for children. These schools were all denominational schools, some being controlled by the Church of England, some by the Roman Catholic Church and others by the Presbyterian Church. These schools were not public schools in the sense of State schools, and no taxes were levied to support such schools. Section 22 of the Manitoba Act provides that, "In and for the Province, the said Legislature may exclusively make laws in relation to education, subject and according to the following provisions:

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools, which any class of persons have by law or practice in the Province at the Union:

2. An appeal shall lie to the Governor-General in Council from any Act or decision of the Legislature of the Province, or of any Provincial authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education."

The Legislature of the new Province in the year 1871 established