

the defendant company from selling its undertaking for partly paid shares of another company. The articles of association empowered the company to sell its undertaking for shares in any other company and to distribute such shares in specie among its shareholders. Part of the capital had been issued and fully paid, and the company being in need of more capital, and being unable to get it by the sale of its unissued shares, entered into an arrangement whereby the undertaking was to be sold to another company for partly paid shares of that company of the same number and amount as the fully paid shares of the old company, and it was provided if the old company should go into liquidation before the allotment of the shares of the new company every member of the old company was to be entitled to claim an allotment to himself of one of the partly paid shares of the new company for each share of the old company held by him, and a time limit was fixed for their exercising the option to take such new shares and provision was made for selling and dividing the proceeds of the unaccepted shares. This, Kekewich, J., held to be a mere scheme for compelling the shareholders of the old company to subscribe further capital, or else accept a share of the proceeds of the unclaimed shares of the new company to be ascertained under a scheme which was likely to be unfair to the dissentient members of the old company, and therefore ultra vires, and he granted an injunction. See *Fuller v. White*, *infra*.

ADMINISTRATION—PROBATE ACTION—COSTS “OUT OF THE ESTATE”
—LIABILITY OF THE REAL ESTATE FOR COSTS OF PROBATE
ACTION—(DEVOLUTION OF ESTATES ACT, ONT.).

In re Vickerstoff, Vickerstoff v. Chadwick (1906) 1 Ch. 762 may be briefly noted for the fact that it shews the liability of real as well as personal estate for the costs of a probate action since the Land Transfer Act of 1897 (see Ontario Devolution of Estates Act). The English Act, it is held by Kekewich, J., makes the real estate as well as the personalty liable for the costs of a probate action; and the same rule will no doubt apply in Ontario in cases of probate, and wherever the grant of administration extends to the realty, so that in the event of a deficiency of the personalty where costs of such proceedings are ordered to be “paid out of the estate” resort may be had to the realty for payment thereof.