

## ULTRA VIRES.

Plaintiffs had security on the undertaking of the defendant company, future calls on shares, and all tolls and money arising from the undertaking, for £200,000 as a first lien. Messrs. Roberts, Lubbock & Co., an English firm, had a lien on the rolling stock for £25,000, and there were about £70,000 due to unsecured creditors. Defendants, under Chapter 104 of the Act of 1874, of the Legislature of Nova Scotia, entitled, "An Act to facilitate arrangements between Railway Companies and their creditors," filed a scheme, whereby preferential stock to the extent of £75,000 was to be created, to be a first charge on both the undertaking, calls, tolls, &c., and the rolling-stock, and this, or the money coming from it, was to be applied to the payment in full of Messrs. Roberts, Lubbock & Co. and certain other unsecured debts specified; stock to the extent of £350,000 was then to be created, to be a subsequent charge on the undertaking, &c., and rolling-stock, and to be issued at par to the existing debenture holders in lieu of the debentures they then held, which were to be delivered up to be cancelled. Plaintiff obtained an order for the appointment of a receiver, which defendants obtained a rule *nisi* to rescind. The Court, considering that the Act was *ultra vires*, as it dealt with the subject of insolvency, and further, that the scheme filed was unreasonable, as its object was to secure other creditors at the expense of debenture holders having a first lien, discharged the last rule *nisi*, but, in view of the possible reversal of the judgment on appeal, offered to modify the order appointing the receiver, by directing him to pay the amount to be received to the Receiver-General, to abide the further order of the Court.

*Murdoch v. W. & A. Railway Co.*..... 137

See also JOINT STOCK COMPANIES, 1.

## UMPIRE.

See ARBITRATION, 1.

## VERBAL REPRESENTATIONS, Effect of upon written contract.

See SPECIFIC PERFORMANCE, 1.

## VERDICT, Setting aside.

See PRACTICE—NEW TRIAL.

## WAIVER of irregularities in proceedings for dyke rates.

Defendants having contended that they could not be required to contribute to the maintenance of a dyke, as there had been irregularities in the proceedings to assess the rate.

*Held*, that having acquiesced in the annual payments for upwards of twenty-five years, they could not now raise such a question, and that the alleged irregularities could only have been taken advantage of by *certiorari*.

*Wickwire v. Gould*..... 245

## OF OBJECTION.

Plaintiff brought suit against defendants, as administrators of the estate of John Beaton, to recover an amount due on an account stated and interest, and obtained judgment by default, no answer having been