COUR SUPERIEURE

MONTRÉAL, 30 AVRIL, 1874.

Coram.—JOHNSON, J.

RAPIN, *Failli, et* CRAIG, *Syndic. et* MÉLOCHE, *Réclamant et* RAPIN, *Contestant.*

JUGÉ:—Qu'un associé ne peut produire une réclamation contre la faillite personnelle de son co-associé, pour ce qu'il lui doit pour reliquat de compte non liquidé.

This is an appeal by Meloche, whose claim was rejected by the assignee, and the court is asked to revise the award of the latter. The bankrupt was a tavern-keeper in Montreal, and as such, in his own individual name he failed. He was also a miller at Melocheville. in partnership with one Meloche. And Meloche, his co-partner in the mill, files a claim in bankruptcy for what the bankrupt owed him *as such co-partner*, being for about $7,000. It is obvious from the general principles of the insolvent law, that no such claim can be allowed. I do not attach much importance to the words in the claim, that it is made against Rapin, the insolvent, "as a member of the said firm," because although his liability to Meloche may have been incurred as a member of the firm, he is personally liable for the debt, and all he has, wherever it may be, is answerable; otherwise he might have overdrawn his account with the co-partnership, and have left nothing there to pay his debt, while all he had in the world would be used up here by the creditors of the tavern, and his co-partner left without recourse. The insolvency of course dissolved the partnership and Rapin's assignee had a right to get for his creditors all the interest he had in the co-partnership, but he has not done so; on the contrary, it is Meloche's pretension that he has a right to come and settle the affairs of the co-partnership before the Insolvent Court. What position would this put Rapin's creditor in? One of the impossibility to get their claims settled while these two men were fighting about a matter that did not concern the creditors at all