before the commencement of the suit, elected to come in, and did come in, under the said proceedings, and assented to said assignment, and proved his claim thereunder, to wit, the cause of action in the declaration mentioned. And defendants say that thereafter, to wit, on the 8th day of August, A.D. 1868, a deed of composition and discharge, under the provisions of the said Act, and under the said assignment, was made and entered into by and between the defendants of the first part, and the several persons whose names and seals were thereunto subscribed and affixed, being also respectively creditors, or agents, or attorneys of creditors of the defendants, and being a majority in number of those of their creditors who were respectively creditors for sums of $100 and upwards, and who represented at least three-fourths in value of the liabilities of the said defendants, of the second part (which said deed, without the schedule, was set out in the plea). And defendants aver that there were no separate creditors of either of them the defendants, and that the deed was executed by the defendants and by a majority in number of those of their creditors who were respectively creditors for sums of $100 and upwards, and who represented at least three-fourths in value of the liabilities of the defendants; and all other requisitions under the Insolvent Act have been observed, so as to make the deed of composition and discharge have the same effect with regard to the remainder of the creditors of the defendants, or either of them, and be binding to the same extent upon him and them, as if they were also parties to it. And defendants say they have always been ready and willing to pay the said composition according to the said deed, secured as mentioned in said deed, and that they offered to pay the same according to the said deed, and before action proffered and tendered to the said plaintiff the promissory note of the defendants endorsed in terms of said deed, but the plaintiff would not receive the same. And the defendants bring into Court under the next plea, $28.55 as the composition on the plaintiff's claim now matured: *i. e.*, the amount of the first note made by defendants and endorsed under the terms of the composition deed, which has matured since the tender of the note by the defendants to the plaintiff; and all things have been done and happened to render the said deed of composition and discharge valid in law, and to release the defendants from the cause of action in the introductory part of the plea mentioned. And as to $28.55, above referred to, defendants bring the same into Court, and say it is enough to satisfy the claim of the plaintiff in respect of the matters therein pleaded to.

On the 19th March the plaintiff joined issue on the pleas.

Under the Law Reform Act of 1868, the case was taken down to trial at the Spring Assizes of 1869 for the County of Hastings, before Wilson, J.

The assignment by the defendants of their estate and effects to Mr. Thomas, the official assignee, on the 4th of July, 1868, as set out in the plea, was proved, and that the plaintiff proved his claim before the assignee under that assignment at $151.17.

The execution of the deed of composition and discharge, dated 8th August, 1868, by thirteen out of twenty-three of the creditors who had signed, and who were creditors for over $100 each, was also proved. The claims of the creditors whose signatures were proved exceeded three-fourths in value of the total claims of all the creditors having demands of $100 and upwards against defendants. Many of the creditors were co-partners in trade, and signed the names of their respective firms; others signed the names of the firm or of their principals by procuration; but they had all received the promissory notes given as the composition notes, except the plaintiff and Hughes Bros., of Montreal, whose debt was about $201.39. On the 19th August the plaintiff proved his debt at $152.17, before the assignee, and the assignee received it on the 15th October, 1869. The assets of defendants' estate were $9,000 or $10,000. The assignee thought 7s 6d. in the £ was the full value of the assets. Tee composition agreed to be paid was 10s. in the £.

The assignee at first was named by the Board of Trade of Belleville, not an incorporated board, but afterwards by the Board of Trade of Kingston. Several creditors had filed their claims before the deed of composition was filed. The composition deed was filed on the 14th September, 1868, and did not then contain the signatures of the defendants. The deed was confirmed by the learned Judge of the County Court of the County of Hastings, and he discharged the insolvents absolutely on the 2nd December, 1868, though the discharge was opposed by the plaintiff.

The plaintiff appealed against the decision of the learned Judge of the County Court in Hilary Term, 1869, to this court. The judgment of this court was given on the 6th March, 1869, allowing the appeal, and the order of the learned judge in the court below granting the discharge of the insolvents was directed to be rescinded. The principal ground on which the judgment was given was the omission on the part of the defendants to execute the deed of composition. See the report, 28 U. C. Q. B. 266.

The signature of the defendants was affixed to the deed of composition about three weeks before the 1st of April, 1869, and after the commencement of the action. It did not appear in the evidence that any leave had been given by the learned Judge of the County Court to sign the deed, or that it had been refiled after it was executed by the defendants. The witness who saw it signed by defendants said it was executed by them in Mr. Ponton's office, and Mr. Northrup, the clerk of the County Court, was not present.

The plaintiff's counsel objected at the trial that the deed of composition and discharge was not executed by defendants at the time this action was brought.

2. That that deed only relates to partnership debts of the insolvents, and does not bind non-assenting creditors for partnership debts or other debts.

3, The deed should have been for the benefit of all the creditors, without distinction as to partnership debts or individual debts.

4. There was no proper or sufficient evidence of the execution of the instrument by the discharging creditors, the execution of some being in the name of partnership firms, and it not being