

holds a portion of the assets of his debtor, consisting of certain goods and promissory notes endorsed over to him, is not entitled, until fully paid, to be collocated upon the estate of such debtor in liquidation under a voluntary assignment for the full amount of his claim, but is obliged to deduct any sums of money he may have received from other parties liable upon such notes or which he may have realized upon the goods, provided it is before the day appointed for the distribution of the assets of the estate on which the claim is made.

Fournier, J., dissenting on the ground that the notes having been endorsed over to the creditor, as additional security, all the parties thereto became jointly and severally liable, and that under the common law the creditor of joint and several debtors is entitled to rank on the estate of each of the co-debtors for the full amount of his claim until he has been paid in full, without being obliged to deduct therefrom any sum from the estates of the co-debtors jointly and severally liable therefor.

Gwynne, J., dissenting on the ground that there being no insolvency law in force, the respondent was bound upon the construction of the agreement between the parties, viz., the voluntary assignment of Feb. 1882, to collocate the appellants upon the whole of their claim as secured by the deed.

Appeal dismissed with costs.

*Beique, Q.C.*, for appellant.

*Geoffrion, Q.C.*, for respondent.

Quebec.]

OTTAWA, Nov. 17, 1891.

ONTARIO BANK V. CHAPLIN.

*Joint and several debtors—Insolvency—Distribution of assets—Privilege—Winding up Act, sec. 62—Deposit with Bank after suspension.*

*Held*:—1st. Affirming the judgment of the Court below, M.L.R., 5 Q.B. 407, Strong and Fournier, JJ., dissenting, *Per Ritchie, C.J.*, and Taschereau, J., that a creditor is not entitled to rank for the full amount of his claim upon the separate estates of insolvent debtors jointly and severally liable for the amount of the debt; but is obliged to deduct from his claim the amount previously received from the estates of other parties jointly and severally liable therefor.

*Per Gwynne and Patterson, JJ.* That a person who has realised a portion of his debt upon the insolvent estate of one of his