

Ct. of Appeal.]

NOTES OF CASES.

[Q.B.]

husband, upon a promise of repayment by him of their value.

The Court, (Burton, Patterson, and Moss, J.J.A.,) *held*, that she was entitled to rank on his estate as a creditor, he having subsequently become insolvent, but that such a claim should be submitted to the most rigid investigation, and must be supported by the most clear and convincing evidence when being proved before the assignee.

W. A. Foster, with him *J. B. Clark*, for the appellant.

R. N. Miller for the respondent.

Appeal allowed.

WOOD V. MCALPINE.

From C.P.]

[Feb 20.

Assignment of chose in action—35 Vict. cap. 12, O.—*Meaning of "Assignee"*—Amendment.

The plaintiff, as assignee of one Munro, an insolvent, sold the insolvent's stock and business to one Smith, but without the preliminary advertisement required by the Insolvency Act for sales *en bloc*. Munro who was retained by Smith as his clerk, sold part of the stock to the defendant. Smith being in doubt whether the right of action for the goods so sold was in himself or in the plaintiff, executed a writing before this suit, purporting to assign his claim against the defendant to the plaintiff. No beneficial interest passed, or was intended by this writing to pass to the plaintiff, who sued in this action in his character as the insolvent's assignee, but really for Smith's benefit.

Held, (Burton, Patterson, Moss, J.J.A., and Galt, J.,) affirming the judgment of the Court of Common Pleas, that the plaintiff was properly non-suited, as he did not possess the beneficial interest in the debt sued on : 35 Vict. cap. 12, sec 3, O.

An application to allow Smith to be added as a plaintiff, was refused at this stage, as such an amendment could only be upon payment of all costs, and this would be of no practical benefit to Smith, who can sue in his own name.

C. Robinson, Q.C., (with him *Foy*,) for the appellant.

M. C. Cameron, Q.C., for the respondent.

Appeal dismissed.

QUEEN'S BENCH.

HILARY TERM.

(Present, HARRISON, C.J., MORRISON, WILSON, J.J.)

BARNARD'S BANKING CO. V. REYNOLDS.

"(English) Companies Act 1862"—Order for Calls—Right of action—Liability of past member.

Held, (Wilson, J. dissenting) that an action for calls will not lie in this country on an order made under "The Companies Act, 1862," in England, on the winding up of the company against a past member in respect of shares formerly held by him at the suit of the company.

C. Robinson, Q.C., and *L. Gordon*, for plaintiffs.

S. Richards, Q.C., for defendant.

LEPROHON V. OTTAWA.

Power of Local Legislature—Taxation of income of Dominion officers.

This was an action brought by plaintiff, an officer of the Dominion House of Commons, for trespass and trover, arising from the collection of taxes from him for income derived from the salary paid him by the Dominion. It was objected *inter alia*, that the Government of Ontario had no power to authorize municipalities to tax the salaries paid by the Dominion to its officers. *Held*, (Harrison, C.J.,) dissenting, that the Local Legislature had such power, and that the plaintiff's income was properly assessed.

C. Robinson, Q.C., for the plaintiff.

Bethune, Q.C., for the defendants.

HALL V. MERRICK.

Married woman—Guarantee for husband.

Plaintiff, who had previously endorsed for J. D. M., husband of defendant, Sarah M., on being again applied to, refused to endorse unless indemnified. J. D. M. proposed to give his wife's guarantee, which was agreed to by plaintiff. J. D. M. obtained his wife's signature to an ordinary blank form of promissory note, without any knowledge on her part of the use to be made of it. This was to be filled up for a large amount, and at the plaintiff's request, the words, "This note to be held as collateral security" were inserted before value received at the end of the note. The defendant swore that she gave the blank to be used as a note and never authorized its use as a guarantee.

Held, not a guarantee.

J. K. Kerr, Q.C., for plaintiff.

E. Crembie, for defendant.