

February 20, 1894.

HOLLIDAY v. HOGAN.

Ontario.]

Surety—Discharge of—Endorser of note—Release of maker—Reservation of rights.

The plaintiff H., and the defendants J. & H., were both creditors of the other defendant, a hotel-keeper. The debtor borrowed \$600 from H., giving a note endorsed by J. & H., who also assigned to H. to the extent of \$600 a chattel mortgage on the debtor's property. The debtor not being able to pay the claim against him sold out his business to a third party who was accepted by both creditors as their debtor, and an agreement was entered into between the plaintiff and the new debtor by which time was given to the latter to pay his debt, but in all the negotiations that took place no mention was made of the \$600 note. An action was brought against both maker and indorser of said note, which, on the trial, was dismissed as against the indorser, the trial judge holding that plaintiff had reserved his rights as against the indorser. This decision against the indorser was affirmed by a Divisional Court (22 O. R. 235), but reversed by the Court of Appeal (20 Ont. App. R. 298).

Held, affirming the judgment of the Court of Appeal, that the indorser was relieved from liability by the release of the maker.

Appeal dismissed with costs.

Johnson, Q. C., for appellant.

Moss, Q. C., for the respondent.

February 20, 1894.

GRAND TRUNK RY. CO. v. BEAVER.

Ontario.]

Railway Company—Purchase of ticket by passenger—Refusal to deliver to conductor—Ejection from train—Contract between passenger and company—Railway Act, 51 Vic. c. 29, s. 248 (D).

By Sec. 248 of the Railway Act (51 Vic. c. 29, s. 248 (D)) any person travelling on a railway who refuses to pay his fare to a conductor on demand may be put off the train. B. purchased a ticket to travel on the G. T. Ry., from Caledonia to Detroit, but had mislaid it when the conductor took up the fares, and was put off the train for refusal to pay the fare in money or produce the ticket.