

A different state of facts is disclosed by the evidence bearing upon the claim of the plaintiff to a quantity of hops still remaining unsold, which were held for the bank in a warehouse under a receipt given by one Hiscox, the lessee of the warehouse. The defendant Smith says that he was in the habit of buying hops from time to time and giving the bank his own direct pledges for the purpose of raising money to pay for them. Then, at the request of the bank, he constituted his book-keeper, Hiscox, his warehouseman, and Hiscox issued warehouse receipts to the bank in substitution for the securities or pledges theretofore held by the bank, there being no further advance made when the new securities were given. The 2nd sub-section of the 75th section of the Bank Act, enables the bank on receipt of the goods, to store them and take a warehouse receipt for them without forfeiting any existing right, and I think this exchange of securities may be treated as being authorized under that sub-section.

HIGH COURT OF JUSTICE, ONTARIO

Bell v. The Ottawa Trust and Deposit Company

A partner who has individually joined as a maker in a promissory note of his firm for their accommodation is not "indirectly or secondarily liable" for the firm to the holder within the meaning of 59 Vict. ch. 22, sec. 1, sub-sec. 1, but is primarily liable, and in claiming against his insolvent estate in administration the holder need not value his security in respect to the firm's liability.

This was an appeal from the certificate of the Master at Ottawa, made in the course of the administration by the Court of the estate of Peter McRae, deceased. The Ottawa Trust and Deposit Company were the administrators of the estate.

The appeal was argued before MacMahon, J., at Ottawa in June, 1897, and the facts of the case are fully stated in his lordship's judgment following:

MACMAHON, J.:—This is an appeal by the Union Bank of Canada from the certificate of the Master at Ottawa, finding that the security held by the bank for their claim filed against the estate of Peter McRae, is on the estate of a third person for whom the estate of the said Peter McRae is only indirectly, or secondarily liable, and that it must, therefore, be valued as provided by the statute.