

his customers' bills and notes which he himself had taken from them. Upon his failure the Bank claimed that it was bound to account only for moneys received up to the date of the assignment. Boyd, C., the trial judge, held that the amount upon which claim is to be made must be fixed at the date the claim is filed. Any moneys received prior to that date are to be credited, those received subsequently need not be taken into account, unless they with the dividend bring up the amount received by the creditor to 100 cents on the dollar. In this action it was also held that the same rule applied to the claim of the Merchants Bank, which had discounted Fawcett's own notes secured by the deposit of his customers' notes, as collateral.

Young v. Spiers (1888) 16 O.R. 672, was a decision under an assignment for the benefit of creditors. The question arose upon the claim of John Harvey, against the estate of John Wardlaw. The latter before his assignment was indebted to Harvey on two mortgages given for certain separate debts and also upon an open account. On filing his claim Harvey grouped the entire indebtedness and claimed a dividend upon the aggregate amount. Some time after the insolvency of Wardlaw, one Buchanan had paid the amount due on the two mortgages in the interest of and at the request of the assignee and had taken assignments of them to himself. As to the open account part was secured by some accommodation notes of one Turnbull, indorsed by the debtor to Harvey. Mr. Turnbull had paid these notes and was collocated for and paid a dividend in respect to them.

In the meantime Mr. Harvey had made an assignment. His assignees, who were plaintiffs in the action, contended that they were entitled to a dividend on the gross amount of Wardlaw's indebtedness, that is on the two mortgages and the open account, including the part which had been paid by Turnbull, as long as the amount received did not exceed 100 cents on the dollar. If they were so entitled the effect of it would be that the Wardlaw estate would be obliged to pay a dividend on the part of the indebtedness covered by the Turnbull notes amounting to \$2,233.29, twice over.

Mr. Wardlaw's assignee, the defendant in the action, contended that so far as the mortgages were concerned that they were independent and isolated transactions and having been paid were absolutely out of the question altogether; and that with regard to the open account he was entitled to a credit of \$2,233.29, the