

his debt; and the residue is divided among the simple contract creditors. *Wilson v. Coxwell*, 23 Ch. Div. 764. This case may, or may not, turn out to be a sound exposition of the statute. There is, certainly, a strong argument against it. The Act expressly saves the right of any creditor entitled to "any lien;" and, as it appears to us, says, that subject to "any lien, charge or other security," all creditors, "as well specialty as simple contract, shall be treated as standing in equal degree, and be paid accordingly out of the assets." The effect of the above decision, on the other hand, is, that creditors are not "treated as standing in equal degree," but as in different degrees; and that while specialty creditors may be paid in full, the simple contract creditors may get nothing. Let us suppose that the debts altogether amount to \$20,000, of which there is due to the specialty creditors \$10,000, to the executor \$9,000, and to one simple contract creditor \$1,000. The assets are \$10,000, which will pay a dividend of fifty cents in the dollar. The specialty creditors get their dividend in full, taking one half of the assets, and the executor takes the whole balance of the estate. This is hardly treating the creditors "as standing in equal degree," and paying them accordingly.

In Ontario, by the very wording of the statute, the right of retainer is displaced. *Re Ross*, 29 Gr. at p. 391.

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