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SUPREME COURT OF CANADA.

OTTAWA, Feb. 20, 1893.

Quebec.]

STEVENSON V. CANADIAN BANK OF COMMERCE.

*Insolvency—Knowledge of by creditor—Fraudulent preference—
Pledge—Warehouse receipt—Novation—Arts. 1034,
1035, 1036, 1169, C.C.*

W.E.E., connected with two business firms in Montreal, viz. the firm of W. E. Elliott & Co., oil merchants, of which he was the sole member, and of Elliott, Finlayson & Co., wine merchants, made a judicial abandonment, on the 18th August, 1889, of his oil business. Both firms had kept their accounts with the Bank of Commerce. The Bank discounted for W. E. Elliott & Co., before his departure for England, on the 30th June, a note of \$5,087.50 due 1st October, signed by John Elliott & Co., and endorsed by W. E. Elliott & Co. and Elliott, Finlayson & Co., and on the 5th July took as collateral security from Finlayson, who was also W. E. Elliott's agent during his absence, a warehouse receipt for 292 barrels of oil, and the discount was credited to Elliott, Finlayson & Co. On or about the 9th July 146 barrels were sold and the proceeds, viz. \$3,528.30, were subsequently, on the 9th August, credited to the note of \$5,087.50. On the 13th July, McDougall, Logie & Co. failed and W. E. E. was involved in the failure to the extent of \$17,000, and on the 16th July, Finlayson, as agent for W. E. E., left with the bank as collateral security against W. E. E.'s indebtedness of \$7,559.30 on the paper of McDougall, Logie & Co., customers' notes of the oil business to