

"effect whatever, with costs against the appellants, and the further conclusions of the Court in the said petition are hereby rejected." McCready et al.,
and
Leamy.

The points submitted on behalf of the appellants were, that they had abundantly established the stoppage of payment by the petitioner, but that he had wholly failed to prove that such stoppage was only temporary, and that he had assets sufficient to meet all his liabilities. And the petitioner on the other hand contended:—

1st.—That he had fully established that at the time of the service upon him of the demand for an assignment of his estate and effects, aforesaid, he was perfectly solvent and was in possession of property, real and personal, sufficient to pay all his debts.

2nd.—That by law he, respondent, was not bound to produce any schedule of debts and liabilities.

3rd.—That appellants failed to prove their answer to respondent's petition.

And, after taking time to consider, the Court of Review pronounced the following judgment:—

"The Court now here, sitting as a Court of Review, having heard the parties by their respective Counsel, in revision upon the judgment rendered in the matter, on the sixth day of December, one thousand eight hundred and sixty-five, by the Hon. Mr. Justice LaFontaine, resident Judge of the Superior Court in the district of Ottawa; having examined the record and proceedings in this cause, and the said Judgment the sixth day of December, 1865, and maturely deliberated, considering that there is error in the said Judgment. This Court now proceeds to render the judgment which ought to have been given and rendered in said matter, and revising the said judgment and considering that the said claimants, plaintiffs in revision, have established the material allegations of their answer to said petition of said Andrew Leamy, defendant in revision, and that the said Andrew Leamy, the said petitioner and defendant in revision, hath entirely failed to establish, that at the time of the service upon him of a demand of an assignment of his estate and effects for the benefit of his creditors under the Insolvent Act of 1864, he, the said Leamy, was not insolvent; and further, that he hath failed to show that he was in possession of property, real and personal, at said period, sufficient to pay his debts, and that he hath not shown by any production of the schedule of debts, the nature and extent of his liabilities. The Court doth reverse the said judgment of the 6th day of December, 1865, and doth set aside and reject the said petition of Andrew Leamy, of the fourteenth November, eighteen hundred and sixty-five, the whole with costs against the said Andrew Leamy, as well those of this Court as those of the proceedings in Insolvency, before the said Judge of said Superior Court, District of Ottawa, and it is ordered that the record be remitted to the Superior Court, District of Ottawa."

Judgment of S. C. reversed.

Abbott & Carter, for appellants.

Perkins & Stephens, for respondent.

(S. B.)