August, 1915, when the partnership was dissolved by consent. By the agreement of dissolution, the partners each assumed certain liabilities of the firm, and McFarlane gave Allen a note for $5,100 representing Allen's share in the business, and agreed to furnish or sell to Allen at cost any goods in his line that might be required of him, for a minimum term of three years or as long as any balance on the note remained unpaid.

McFarlane continued the business and furnished certain goods to Allen, but paid nothing in cash on the note till after the partnership between the plaintiff and McFarlane had been formed. The business did not succeed in McFarlane's hands.

Allen was consulted by the plaintiff, while the latter was still an infant, about a loan in anticipation of a sum which he expected from his father's estate when he should become of age, and Allen suggested that the plaintiff should go into business with McFarlane. The plaintiff, who relied on Allen's judgment, agreed to this, and arrangements were made, under which the plaintiff at once went into the business. A partnership agreement was entered into. Allen's claim of $5,100 was mentioned in the course of the negotiations as a claim against McFarlane; the plaintiff did not agree to assume it as a debt of the new firm. On the 2nd April, 1918, the plaintiff came of age; on the 4th or 5th he got a cheque for $2,500, which he endorsed and put into the firm's cash-box. McFarlane on the 6th took this cheque and deposited it in a bank, and out of the proceeds paid Allen $1,300 on account of his note.

The business went on badly; McFarlane was in fact insolvent when he took the cheque on the 6th April; and on the 30th September McFarlane, assuming to act for the firm, executed a deed of assignment to Gundry, who sold the assets to Allen for 60 cents on the dollar, realising $4,036.19. Allen went into possession and carried on the business.

The plaintiff was wholly overreached and defrauded by McFarlane.

The learned Judge reviewed the evidence, which was to some extent conflicting: he accepted the evidence of the plaintiff and discredited both McFarlane and Allen.

The findings were: that Allen was not a creditor of the firm, nor entitled to rank as such against the assets of the new firm; that no novation took place constituting Allen a creditor of the new firm—to that the plaintiff's consent was lacking; that Allen was a creditor of McFarlane alone, and payments on account in cash or goods were made on McFarlane's account solely; and that the assignment to Gundry was invalid and void: Cameron v. Stevenson (1862), 12 U.C.C.P. 389.