

pleaded that he had reasonable and probable cause for acting as he had done. It was possible, even probable, that Mrs. Crowley intended to annoy Laviolette, rather than to steal his ice, but there was no doubt that she did take the ice and carry it into her own premises. She knew it was not hers, for she had ordered no ice at the time, and had never ordered any such quantity as that. Laviolette had good ground, therefore, for his proceeding.

Cross, J., thought the judgment of the magistrate in dismissing the case was perfectly correct, and he did not blame Mrs. Crowley. But all the probabilities were in favor of Laviolette supposing that his ice was intentionally taken. Consequently, the claim for damages could not be sustained.

MONK, J., said his first impression was that the judgment should be reversed, because Mrs. Crowley did not intend to steal the ice, but after consideration he came to the conclusion that Laviolette had cause of suspicion, and his Honor therefore concurred in the judgment dismissing the action.

*Kerr & Carter* for appellant.

*Jetté, Beique & Choquet* for respondent.

ARPIN, Appellant, and POULIN, Respondent.

*Surety—Notes given to obtain Creditor's Assent to Composition.*

Where a debtor settling with his creditors for 50c. secured, privately gave some of them unsecured notes for the balance to obtain their assent to the composition, *held*, that the endorser of the composition notes was freed from liability.

TESSIER, J. One Massé, an insolvent, made a composition with his creditors, and Dr. Poulin, the respondent, became surety for the payment of the composition notes, which he endorsed. It appears, however, that Arpin, a creditor, got other notes unsecured, from the insolvent, as a condition of signing the discharge. The insolvent had again become insolvent, and Poulin, having learned of the secret inducement to sign the composition deed, refused to pay one of the composition notes. He had got a subrogation of Massé's property, and he contended that his position as surety had been changed by the fraud. The judgment in Poulin's favor was correct and must be confirmed.

DORION, C. J., remarked that Poulin gave security on the faith of a deed of composition,

signed by Arpin, by which Arpin gave a discharge to Massé for the whole debt, providing he got 50c. secured. After that was signed Poulin endorsed the composition notes, and got a transfer of the stock from the debtor. On the same day Massé gave his own notes for the other 50c. in the dollar. Massé paid the first note which was not endorsed, and then he failed again. His position was affected by giving these notes, and there was an evident fraud on Poulin.

Judgment confirmed.

*Jetté & Lacoste*, for appellant.

*Lacoste & Globensky*, for respondent.

STEVENS, appellant, and PERKINS, Respondent.

*Insolvency—Fraudulent Collusion.*

Where a trader, before insolvency, went to England, taking with him a sum of his own money and a sum belonging to his wife, and purchased goods there in connection with his trade, (*held*, that in the absence of any account of the money so taken from his assets,) it must be assumed the purchase of goods was made with such funds.

DORION, C. J., said this appeal arose out of a *saisie-revendication* which the respondent had taken as assignee to recover 21 cases of leather belting as belonging to the insolvent estate of Campbell. The appellant, wife of Campbell, intervened, claiming the goods as her property, as having been purchased with her money. The respondent alleged fraud, and the Court below maintained that the whole transaction was a fraudulent one, and that the assignee, Perkins, was entitled to recover possession of the goods. Campbell, who was doing a large business here, had correspondents in England of the name of MacDonald and Hutchinson. They got into difficulties which involved Campbell, and the latter went to England to try to settle them. He took with him \$30,000 of his own money, and \$15,000 of his wife's. In England he had to redeem goods to the amount of £600 which his correspondents had pledged. He paid the £600 and got a bill of sale in the name of his wife from Hutchinson & McDonald, and sent the goods back to Montreal where they were placed in the custody of Nelson Davis, a warehouseman of this city. There was evidence that Campbell had a power of attorney from his wife. It was said the \$15,000 was given to him by his wife to invest in England, and that this was one of the modes of investment adopted by Campbell. He did not, however,