

the 9th November the secretary of the company came to Midland and made a demand for payment of the draft. Stephenson did not pay. He said all the goods were sold, and he had no money. The secretary inquired where the buggies were, and was informed that the two in question were in the possession of the defendants. A demand was made in writing on the 30th November, but not complied with. On the 9th November the company, by a document in writing, appointed Stephenson their agent to sell, and in the document it was agreed that the terms thereof should apply to all goods then already sold which were still unsettled for. This, of course, does not include the two buggies in question, which had been settled for. On the same day the company took an assignment from Stephenson of all his book debts and accounts and all his bills, notes, &c., as additional collateral security to the existing account. The assignment is perfectly general, and does not specify any note, &c., in particular. On the 10th November, however, the plaintiffs wrote Stephenson for his bill-book, that they might make a list of the notes. This was sent, and a list of the notes was made, including that of the defendants, "Wilson & Humphries, Jan. 10, 2 buggies, \$90.00." And it is admitted that the plaintiffs' secretary knew, at the time of the assignment, that this note, unpaid, represented part of the price of the two buggies. But this with other notes was in the Standard Bank, having been given to the bank by Stephenson, and the bank had a claim upon it as against Stephenson, and therefore in priority to the plaintiffs as assignees. The defendants have paid the amount of the note to the bank, but it does not appear that the plaintiffs have received any of the proceeds.

The plaintiffs, upon the defendants' refusal to give up the buggies, brought this action in the County Court of the County of Simcoe for \$137, value of the said buggies, as damages for the wrongful detention of same, or for a return of said buggies and damages for wrongful detainer.

At the trial before Ardagh, County Court Judge, on the 20th June, 1910, that learned Judge indorsed the record: "Nonsuit. I assess the damages at \$70.00."

The plaintiffs now appeal.

In respect of the amount of damages, it is admitted that there was no conversion until demand was made; as Stephenson had the right to sell, there was no wrong committed by the defendants until they refused to comply with the demand for possession—until that time their possession was rightful. The evidence of the defendant Wilson is that at that time the buggies were worth