

which was brought to recover \$1,650 and interest on a promissory note.

The appeal was heard by BOYD, C., STREET, J., MABEE, J. M. Wright, Belleville, for plaintiffs.

E. G. Porter, Belleville, for defendants.

STREET, J.:—The evidence shews that defendants James Bryden and James McLuckie, some years before the making of the note sued on, had become parties to a note of which the one sued on purported to be a renewal, as sureties for one Robert Bryden, and that the debt for which they had so become sureties had never been paid. At the time they made the note sued on, McGowan, one of plaintiffs' firm, produced to them a note purporting to be made by them and by Robert Bryden, which was alleged to have been the latest renewal of the original note, and they were asked to give a new note for it, as it was overdue. They say that they denied the genuineness of their signatures to the note produced to them, but that they signed the renewal now sued on, upon the promise of McGowan that, as he only wished to have it to produce to the board, they would never be called on to pay it. One of the defendants says that McGowan also stated that he would get Robert Bryden to sign the renewal—the other defendant does not speak of such a promise.

At that time Robert Bryden was living a few miles away, but he was known to be utterly without means, as he had transferred to plaintiffs all the property he had in the world, to secure this and other debts; he had since moved away to the North-West, and was not present at the trial.

McGowan denies the story told by defendants; says that he went out to obtain the renewal in the usual course of business, and that defendants signed it without his making any promise not to look to them for payment; and that he was not asked to obtain Robert Bryden's signature to it, and did not offer or agree to do so.

In these circumstances, if the only defence to the note had been the absence of consideration, it is clear that that defence could not have succeeded, because the existence of defendants' liability upon the unpaid note given for Robert Bryden's note would have answered that defence; for, even if the debt had been overdue for more than 6 years, that fact could, under the circumstances, have been set up upon the defence of no consideration.

There being, then, a good and sufficient consideration for the note which they signed, defendants cannot be allowed to