

with the plaintiff, but no matter what one's sympathies are, the Law Merchant should not be disturbed. On the 29th March the Chicle Co. made an assignment to the Canada Trust Company for the benefits of creditors, and at a meeting of the company's creditors, held on the 11th April, the plaintiff filed a claim for a large amount, including the amount of the note sued upon, and upon which Binder was an endorser. There is no evidence that Binder had any notice or knowledge of the plaintiff's claim. Binder filed a claim for a large amount, but the amount of the note in question was not included and formed no part of his claim. The assignee took charge of the Chicle Company's premises. The note in question fell due on April 27th. The plaintiff did not present the note for payment at the company's office or anywhere else, or to any person. The learned trial Judge finds that the plaintiff could, without difficulty, have presented the note at the maker's office so as to enable her to give notice of dishonour under sec. 89 of the Act. This she neglected to do. The learned trial Judge finds that the note in question was not made for Binder's accommodation, nor was there any evidence of waiver or presentment, express or implied. Plaintiff seeks to hold Binder, as an endorser of the note, but she does not allege or prove presentment or notice of dishonour, nor does she allege or prove anything dispensing with or rendering unnecessary such presentment and notice of dishonour.

The learned trial Judge referred to secs. 92, 184 and 186 of the Bills of Exchange Act. The fact that Binder made an assignment as President of the Chicle Company for the benefit of creditors was no excuse, under the circumstances, for the neglect to present the note and give notice of dishonour. *Esdaile v. Sowerby*, 11 East, 114.

I think this appeal should be dismissed, but under the circumstances, without costs.