

Bain, J.]

BANK OF HAMILTON v. DONALDSON.

[April 12.]

*Bank Act, ss. 64 & 68—Sale of Goods Act, 1896, s. 11, s. 12 sub-s. 1—Contract of sale—Consideration—Liability to one person for price of goods bought from another who is the true owner.*

M. & I., being indebted to the plaintiffs, gave a bill of sale to their manager of a number of horses expressly to secure their indebtedness to the bank and empowering the manager to sell the horses. The instrument further provided that it was taken only by way of additional security for the debt. After the execution of the transfer it was agreed between I. and the manager that they were to work together to dispose of the horses, and I. was to look after the sales, to pay the proceeds to the bank, and to make any notes received on sales of the horses payable to the bank. Then I. sold some of the horses by auction and others by private sale through a man named McRae, who had them in charge for him. Defendant bought twelve of the horses giving the promissory notes sued on for the price, which were made payable to the plaintiffs as agreed. After the purchase, defendant arranged with McRae that the latter should keep the twelve horses for a while for him, and promised to pay for their pasturage. McRae took charge of them accordingly, but defendant never came for the horses, and the greater number of them having died, he resisted the demand for payment of the notes:—

*Held, 1.* The contract of sale of the horses to defendant was completely carried out; that the property in them passed to him and that he was liable for the price agreed on, as it could not be said that the consideration for the notes had entirely failed.

2. The bank could recover under s. 11, sub-s. (c), and s. 12, sub-s. 1, of The Sale of Goods Act, 1896, notwithstanding that the horses were never the property of the bank.

3. The security taken by the manager of the bank from M. & J. was authorized by s. 68 of The Bank Act and was not forbidden by s. 64 of that Act, as the sale of the horses was not made by the bank but by their manager, jointly with I., who continued to have an interest in them.

*Henderson and Matheson, for plaintiffs. A. D. Cameron, for defendant.*

Richards, J.]

CODVILLE v. PEARCE.

[April 12.]

*Exemptions—Homestead—Judgments Act, R.S.M. c. 80, s. 12.*

The plaintiff claimed a right to have two village lots owned by defendant sold to satisfy a judgment of which he had registered a certificate. Defendant occupied as his dwelling the upper floor of a two storey building on one of the lots, the ground floor having been built for use as a store. There was a stairway inside the building connecting the two floors, also two stairways