

Case No. 3,423. CROSBY ET AL. V. LANE.
[4 Am. Law J. (N. S.) 333; 14 Law Rep. 452.]

District Court, S. D. New York.

Oct. Term, 1851.

PROMISSORY NOTE—WHEN PAYMENT.

1. *Held*, that, by the commercial law, a negotiable promissory note, received in payment of a pre-existing debt, bona fide, and without notice, is not subject, in the hands of the holder, to the equities between the original parties, although it be an accommodation note, though the rule in the state of New York be otherwise.
2. But *held*, that the acceptance of such note as payment, on the express assurance of the assignor that it was business paper, and not accommodation, does not amount to a payment and extinguishment of the original indebtedment.
3. *Held*, also, that a representation made by the assignee, at the time of transferring the note, that the parties were of high credit and responsibility, those parties not being residents of the state, and being unknown to the creditor, if found to be not true in point of fact, and circumstances indicating a knowledge of the debtor, that their credit and responsibility were doubtful, receiving the note on such representation does not extinguish the original debt.
4. *Held*, that the creditor, on returning the note protested for non-payment, or dishonored, or offering it to the assignor in court on trial, may maintain an action on the original debt.

[Nowhere more fully reported; opinion not now accessible.]