

Case No. 8,051.

LANE ET AL. V. GOBBOLD.

[39 Hunt, Mer. Mag. 332.]

Circuit Court, D. South Carolina.

1858.

NOTES—WHAT IS PROMISSORY NOTE—SPECIAL AGREEMENT—PLEADING AT LAW—DECLARATION ON SPECIAL AGREEMENT.

[A paper writing containing a promise to do anything more than to pay a certain sum of money at a certain time and at all events is not a promissory note, but a special agreement, and must be declared on as such.]

[Action by W. T. Lane & Co. against Asa Gobbold on an alleged promissory note.]

MAGRATH, District Judge, presiding.

This was an action against one of two makers of what purported to be a promissory note, whereby defendant promised to pay \$2,274,27 for value received, with current rate of exchange on New York, and all expenses of collection in case of suit, at the agency of the Mechanics' Bank of Cheraw, South Carolina, and Marion, South Carolina. Defendant's counsel contended that this was no promissory note; that, if an agreement, the consideration must be set out in the declaration, and all the facts established by proof; and so it was held by his honor that a paper writing containing a promise to do anything more than to pay a certain sum of money at a certain time, and at all events, is not a promissory note, but is a special agreement, and must be declared on as such.