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PAYMENT BY A STRANGER.

In May, 1911, an important case relating to the above matter came up for decision before the Court of Appeal. *Hirachand Punamchand v. Temple*.¹

This was an action brought upon a promissory note by moneylenders against Lieutenant Temple who had borrowed money from them. The plaintiffs began to press the defendant for payment, and, not getting their money, they communicated with his father, Sir Richard Temple, in the hope that they might obtain payment from him. Several letters passed between the plaintiffs and Sir Richard Temple's solicitors. At length, the father, through his solicitors, sent the plaintiffs a draft for an amount less than that of the debt and offered it in full settlement of the debt. The plaintiffs took this draft, cashed it, and kept the money; but, in spite of that, they brought this action for the balance of the amount of the note. Vaughan-Williams, L.J., was not inclined to agree that these facts shewed an accord and satisfaction, but thought there were two ways of viewing the facts of this case. First, he was bound to conclude that the plaintiffs agreed to accept the draft on the terms upon which it was sent, and that, in consequence, the plaintiffs had ceased really to be holders of the negotiable instrument on which they sued; for in their hands the document had ceased to be a negotiable instrument quite as much as if there had been an erasure of the writing of the signature to the note. Hence, if there was no accord and satisfaction, the defendant could have pleaded that the document in the circumstances had ceased to be a promissory note. Secondly, assuming that the instrument did not cease to be a negotiable instrument, then, from the moment when the draft was cashed by the plaintiffs, a trust

(1) 1911, 2 K.B. 330.