

delivery and acceptance of the promissory note of one of them in satisfaction. At the trial the plaintiffs' book-keeper said that he presented the account, and took the note made by one defendant in settlement, writing at the foot of the account, "received payment by note." The Judge thereupon directed a verdict for defendants:—Held, that the plea was good, but that it should have been left to the jury to find whether the note was accepted by the plaintiffs in satisfaction. *Port Darlington Harbour Co. v. Squair*, 18 U. C. R. 535.

Note of Third Person.]—The delivery and acceptance of the negotiable promissory notes of a third person in satisfaction, though for a less sum in amount, is a good satisfaction. *Hanscombe v. Macdonald*, 4 C. P. 130.

Suspension of Remedy.]—A mortgage was made for £1,196, payable by instalments of which the third instalment was paid. For the first two instalments the mortgagor gave two promissory notes, bearing even date with the mortgage, and took the following receipt from the mortgagee: "Received from R. B. W. his notes for £200 at four months and £200 at eight months from the first of June last, in full for the same amounts due on a mortgage made by him to me, maturing at same date." And the following indorsement was made on the mortgage: "Received from R. B. W. two notes of hand, indorsed by L., for £200 each to complete the two first payments on the within mortgage." The notes were not paid at maturity, and in a suit by the assignee of the mortgagee to foreclose in default of payment of the first two instalments:—Held, that the right to recover upon the mortgage was only suspended and not discharged by the taking of the notes. *Gibb v. Warren*, 7 Gr. 496.

IV. SPECIAL PLEAS.

Account Stated.]—The pleas set up an account stated between plaintiff and defendant, and an acceptance by plaintiff of defendant's agreement to pay the sum found due:—Held, that the plaintiff, in his replication, might traverse both the accounting and the acceptance by plaintiff in satisfaction. *Light v. Woodstock and Lake Erie R. W. Co.*, 13 U. C. R. 201.

Agreement After Breach.]—Action on the common counts. Plea, that after the promises, and before this suit, it was agreed that defendant should sell to plaintiffs, and plaintiffs then and there bought of defendant, twenty shares of certain stock, which defendant should hold for plaintiffs' use, and transfer to them when required; and that the plaintiffs should then and there accept defendant's said agreement, and the said shares so to be transferred, in full satisfaction of the said promises: that in pursuance of, and ever since such agreement, defendant had held, and still holds, such shares for the plaintiffs, and hath been and is ready to transfer them when required:—Held, plea bad, because it was not shewn whether the alleged agreement was before or after the breach of the promise sued on. *Ross v. Heron*, 12 U. C. R. 467.

Agreement Not Accepted.]—Plea, satisfaction and discharge, "by delivering to the plaintiff, according to agreement, a certain promissory note," &c.:—Held, bad, for not averring that the plaintiff accepted the note in satisfaction. *Brown v. Jones*, 17 U. C. R. 50.

Agreement Not Completed.]—Action on defendants' covenant to make a sufficient crossing on plaintiff's land. Defendants pleaded a former action on the same covenant, alleging that after issue joined therein it was agreed that defendants should pay and the plaintiff accepted £125, in full satisfaction of the cause of action, and that the £125 was thereupon paid and accepted, &c.; to which the plaintiff replied, traversing the payment and acceptance in satisfaction, &c. The plaintiff wished to shew that, besides paying the £125, defendants were to make the ditch to the lake:—Held, that under the replication the only question in issue was the payment of the £125, not the agreement to accept it in satisfaction. *Utter v. Great Western R. W. Co.*, 17 U. C. R. 392.

Agreement Not Completed.]—Declaration, that on an accounting between them defendant's indebtedness to plaintiff was fixed at a certain sum, to be paid off as stipulated, one of which payments defendant undertook to make to A. & Co., to whom plaintiff was liable, it being also agreed that plaintiff should towards that liability provide an additional sum by a day named, to be repaid by defendant to him; and further, that any error in said accounting should be corrected, and plaintiff should give up to defendant all notes and securities belonging to defendant, which plaintiff before and at the time of the accounting held, except, &c. Breach, that although a reasonable time had elapsed, &c., defendant had not paid A. & Co. Plea—after alleging that the sum agreed to be paid to A. & Co. was composed of various notes made by defendant to plaintiff—that after said accounting, and before action, plaintiff indorsed said notes to A. & Co., in settlement of their claim, of which A. & Co., had given defendant notice:—Held, plea bad, as not shewing that the notes, which had been indorsed away, had been given for the cause of action declared on. *Jones v. Cameron*, 16 C. P. 271.

Agreement Not Completed.]—To an action by husband and wife on a note for \$8000 made to the wife before marriage, defendant pleaded that the wife was formerly the widow of one C., to whom defendant had been indebted in \$400; that she subsequently took out letters of administration to his personal estate; and that afterwards the defendant became indebted to her in \$200; that the note declared on was for these two sums; and that after its maturity, with the knowledge and assent of her husband and co-plaintiff, she agreed with defendant to accept from him a conveyance in fee of certain lands in full satisfaction and discharge of her claim on said note; that defendant accordingly executed a proper deed of said lands to her, duly registered, and tendered the same to her before action, and that she never expressed any dissent from said agreement until after said tender:—Held, on demurrer, a bad plea: 1. As not averring that there was no marriage settlement, so as to bring the case under