has reason to believe that it will be dishonoured on presentation, he must nevertheless present it in order to hold the endorser liable.

As said by Lord Ellenborough, C.J., in *Esdaile* v. *Sorrerby*, 11 East. 117: "It is too late now to contend that the insolvency of the drawer or the acceptor dispenses with the necessity of a demand for payment or of notice of dishonour." Neither knowledge nor the probability, however strong, that a note will be dishonoured excuses failure to present for payment or to give notice of dishonour: *Caunt* v. *Thompson*, 7 C. B. 400; *Tindal* v. *Brown*, 1 T. R. 167.

But the plaintiff says that the defendant has by his conduct as a creditor and his position as former President brought the case within *Hill* v. *Heap*, Dowl. & Ry., p. 57. In that case the drawer of a bill had given orders to the drawee not to pay it if presented and communicated these orders to the plaintiffs, which was interpreted by the Court in effect as saying to the plaintiffs "you need not trouble yourselves to present that bill for payment for it will not be paid if you do," and the Court held that the defendant's conduct had rendered the act of presentment useless. But in the present case the trial Judge has not, nor could be properly have drawn any such inference from the conduct. or position of the defendant Binder. He swore that when five days before the assignment he was asked by Short to endorse the note in question, the latter assured him that the note would be met at maturity, that relying on this assurance he endorsed it and was not aware of its non-payment until sometime after its maturity.

Further, he made no representation to the plaintiff indicating any intention to waive his rights in regard either to presentment or notice of dishonour. The general principle is that acts done before maturity in order to constitute waiver must have been such acts as were calculated to mislead the holder and to induce him to forego taking the usual steps to charge the endorser; Parsons on Notes & Bills, 2nd ed., p. 592. There are no such acts in this case.

The mere assignment of a debtor's estate does not relieve the holder of a note of the duty of presentment for payment in order to hold prior endorsers, and I fail to see how the added circumstances of the assignment being caused by a person who being endorser is a creditor and also President of the debtor company can be construed as evidencing an