NINTH REVISION

REVISED STATUTES

OF THE

STATE OF MAINE

1954

FIRST ANNOTATED REVISION

IN FIVE VOLUMES

VOLUME 4

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA

Chapter 188.

Uniform Negotiable Instruments Act

Negotiable Instruments in General. Form and Interpretation.

Sec. 1. Form of negotiable instrument.—An instrument to be negotiable must conform to the following requirements:

I. It must be in writing and signed by the maker or drawer;

II. Must contain an unconditional promise or order to pay a sum certain in money;

III. Must be payable on demand or at a fixed or determinable future time;

IV. Must be payable to order or to bearer; and

V. Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.
(R. S. c. 174, § 1.)

Meaning of "sum certain." — To constitute a promise to pay a "sum certain," there should be such a degree of certainty that the exact amount to become due and payable at any future date should be clearly ascertainable at the date of the note, uninfluenced by any conditions not certain of fulfillment. Waterhouse v. Chouinard, 128 Me. 505, 149 A. 21.

Note with alternative contingent discount held not for "sum certain."—A note otherwise in proper form but containing the words, "with the privilege of discharging this note by payment of principal less a discount of five per centum within thirty days from the date hereof" does not contain a promise to pay a "sum certain," and such a note is therefore not a negotiable instrument. Waterhouse v. Chouinard, 128 Me. 505, 149 A. 21.

And note alternatively payable in property is nonnegotiable.—A promissory note made payable in money or "in my property," if the quoted words relate to the medium of payment, is nonnegotiable because such a note to be negotiable must be payable "in money." Roux v. Morey, 128 428, 148 A. 406.

Sec. 2. Certainty as to sum; what constitutes.—The sum payable is a sum certain within the meaning of this chapter, although it is to be paid:

I. With interest; or

II. By stated installments; or

III. By stated installments, with a provision that upon default in payment of any installment or of interest, the whole shall become due; or

IV. With exchange, whether at a fixed rate or at the current rate; or

V. With costs of collection or an attorney's fee, in case payment shall not be made at maturity.
(R. S. c. 174, § 2.)

Sec. 3. When promise unconditional.—An unqualified order or promise to pay is unconditional within the meaning of this chapter, though coupled with:

I. An indication of a particular fund out of which reimbursement is to be made or a particular account to be debited with the amount; or

II. A statement of the transaction which gives rise to the instrument. But an order or promise to pay out of a particular fund is not unconditional.
(R. S. c. 174, § 3.)

Sec. 4. Determinable future time; what constitutes.—An instrument is payable at a determinable future time, within the meaning of this chapter, which is expressed to be payable:

I. At a fixed period after date or sight; or

II. On or before a fixed or determinable future time specified therein; or

III. On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening be uncertain.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect. (R. S. c. 174, § 4.)

Applied in Levee v. Mardin, 126 Me. 133, 136 A. 696.

Sec. 5. Additional provisions not affecting negotiability. — An instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable. But the negotiable character of an instrument otherwise negotiable is not affected by a provision which:

I. Authorizes the sale of collateral securities in case the instrument be not paid at maturity; or

II. Authorizes a confession of judgment if the instrument be not paid at maturity; or

III. Waives the benefit of any law intended for the advantage or protection of the obligor; or

IV. Gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal. (R. S. c. 174, § 5.)

Sec. 6. Omissions; seal; particular money.—The validity and negotiable character of an instrument are not affected by the fact that:

I. It is not dated; or

II. Does not specify the value given or that any value has been given therefor; or

III. Does not specify the place where it is drawn or the place where it is payable; or

IV. Bears a seal; or

V. Designates a particular kind of current money in which payment is to be made.

Nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument. (R. S. c. 174, § 6.)

Sec. 7. When payable on demand. — An instrument is payable on demand:

I. Where it is expressed to be payable on demand or at sight or on presentation; or

II. In which no time for payment is expressed.

Where an instrument is issued, accepted or indorsed when overdue, it is, as regards the person so issuing, accepting or indorsing it, payable on demand. (R. S. c. 174, § 7.)

Sec. 8. When payable to order. — The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of:

I. A payee who is not maker, drawer or drawee; or

II. The drawer or maker; or

III. The drawee; or

IV. Two or more payees jointly; or

V. One or some of several payees; or

VI. The holder of an office for the time being.

Where the instrument is payable to order the payee must be named or otherwise indicated therein with reasonable certainty. (R. S. c. 174, § 8.)

Cited in Holmes v. Vigue, 133 Me. 50, 173 A. 816.

Sec. 9. When payable to bearer.—The instrument is payable to bearer:

I. When it is expressed to be so payable; or

II. When it is payable to a person named therein or bearer; or

III. When it is payable to the order of a fictitious or nonexisting person and such fact was known to the person making it so payable; or

IV. When the name of the payee does not purport to be the name of any person; or

V. When the only or last indorsement is an indorsement in blank.

(R. S. c. 174, § 9.)

Sec. 10. Terms when sufficient. — The instrument need not follow the language of this chapter, but any terms are sufficient which clearly indicate an intention to conform to the requirements hereof. (R. S. c. 174, § 10.)

Sec. 11. Date, presumption as to.—Where the instrument or an acceptance or any indorsement thereon is dated, such date is deemed prima facie to be the true date of the making, drawing, acceptance or indorsement as the case may be. (R. S. c. 174, § 11.)

Sec. 12. Antedated and postdated.—The instrument is not invalid for the reason only that it is antedated or postdated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery. (R. S. c. 174, § 12.)

Stated in part in Flynn v. Curric, 130 Me. 461, 157 A. 310.

Sec. 13. When date inserted. — Where an instrument expressed to be payable at a fixed period after date is issued undated, or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instru-

ment in the hands of a subsequent holder in due course; but as to him, the date so inserted is to be regarded as the true date. (R. S. c. 174, § 13.)

Sec. 14. Blanks; when filled.—Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within a reasonable time. But if any such instrument, after completion, is negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time. (R. S. c. 174, § 14.)

Sec. 15. Incomplete instruments not delivered. — Where an incomplete instrument has not been delivered it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery. (R. S. c. 174, § 15.)

Sec. 16. Delivery; when effectual; when presumed.—Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. As between immediate parties and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting or indorsing, as the case may be; and in such case the delivery may be shown to have been conditional, or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved. (R. S. c. 174, § 16.)

Note may be delivered subject to condition precedent. — It may be shown that a bill or note absolute in form, although manually delivered to the payee was, by a prior or contemporaneous oral agreement, not to become a binding obligation except upon the happening of a certain event. But it cannot be shown that such a note was not absolute according to its terms but conditional, its payment or enforcement depending on a contingency. That is, it may be shown that the note's becoming a binding obligation was dependent upon a condition precedent. It cannot be shown that its obligation, if it were delivered as an obligation, was dependent upon a condition subsequent contradicting or at variance with its express terms. Kuhn v. Simmons, 126 Me. 434, 139 A. 474.

Quoted in part in Roux v. Morey, 128 Me. 428, 148 A. 406; Madigan v. Lumbert, 136 Me. 178, 5 A. (2d) 278.

Sec. 17. Construction where instrument ambiguous. — Where the language of the instrument is ambiguous or there are omissions therein, the following rules of construction apply:

I. Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two, the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain, reference may be had to the figures to fix the amount;

II. Where the instrument provides for the payment of interest, without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated, from the issue thereof;

III. Where the instrument is not dated, it will be considered to be dated as of the time it was issued;

IV. Where there is a conflict between the written and printed provisions of the instrument, the written provisions prevail;

V. Where the instrument is so ambiguous that there is doubt whether it is a bill or a note, the holder may treat it as either at his election;

VI. Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an indorser;

VII. Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon.
(R. S. c. 174, § 17.)

Sec. 18. Liability of person signing in trade or assumed name.—No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name. (R. S. c. 174, § 18.)

Sec. 19. Signature by agent; authority; how shown.—The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose; and the authority of the agent may be established as in other cases of agency. (R. S. c. 174, § 19.)

Sec. 20. Liability of person signing as agent, etc.—Where the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of a principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability. (R. S. c. 174, § 20.)

Sec. 21. Signature by procuration; effect.—A signature by "procuration" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority. (R. S. c. 174, § 21.)

Sec. 22. Effect of indorsement by infant or corporation. — The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon. (R. S. c. 174, § 22.)

Sec. 23. Forged signature; effect.—When a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party against whom it is sought to enforce such right, is precluded from setting up the forgery or want of authority. (R. S. c. 174, § 23.)

Applied in Branz v. Stanley, 142 Me. 318, 51 A. (2d) 192.

Consideration.

Sec. 24. Presumption of consideration. — Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value. (R. S. c. 174, § 24.)

Applied in Douglas v. Burnham, 127 Me. 301, 143 A. 55; Roux v. Morey, 128 Me. 428, 148 A. 406; Milan v. Graham, 131 Me. 220, 160 A. 581; Eisenman v. Austen, 132 Me. 214, 169 A. 162.

Stated in part in Eastern Trust & Banking Co. v. Guernsey, 144 Me. 135, 65 A. (2d) 13.

Sec. 25. Consideration, what constitutes.—Value is any consideration sufficient to support a simple contract. An antecedent or pre-existing debt constitutes value; and is deemed such whether the instrument is payable on demand or at a future time. (R. S. c. 174, § 25.)

Section abrogates doctrine that holder of note as collateral for pre-existing debt, without more, is not holder for value. —The doctrine formerly held in Maine that the holder of a note given merely as collateral security for a pre-existing debt, without parting with any right or extending any forbearance or giving any new consideration, is not to be regarded as a holder for value, has been abrogated by this section. Jordan v. Goodside, 123 Me. 330, 122 A. 859.

Applied in Douglas v. Burnham, 127 Me. 301, 143 A. 55.

Quoted in part in Gilman v. F. O. Bailey Carriage Co., 125 Me. 108, 131 A. 138; First Nat. Bank of Pittsfield v. Morong, 146 Me. 430, 82 A. (2d) 98.

Stated in part in Merrill Trust Co. v. Brown, 122 Me. 101, 119 A. 109; Flynn v. Currie, 130 Me. 461, 157 A. 310.

Sec. 26. What constitutes holder for value.—Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who became such prior to that time. (R. S. c. 174, § 26.)

Sec. 27. When lien on instrument constitutes holder for value. — Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien. (R. S. c. 174, § 27.)

Sec. 28. Effect of want of consideration.—Absence or failure of consideration is matter of defense as against any person not a holder in due course; and partial failure of consideration is a defense pro tanto, whether the failure is an ascertained and liquidated amount or otherwise. (R. S. c. 174, § 28.)

Cited in Peterson Oven Co. v. Fickett, 121 Me. 413, 117 A. 575.

Sec. 29. Liability of accommodation party.—An accommodation party is one who has signed the instrument as maker, drawer, acceptor or indorser, without receiving value therefor, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party. (R. S. c. 174, § 29.)

Accommodation party liable to holder for value — exception. — An accommodation party is liable to one who holds the instrument as a holder for value, unless in other respects it appears he is not a holder in due course. Madigan v. Lumbert, 136 Me. 178, 5 A. (2d) 278.

Applied in Ticonic Nat. Bank v. Fashion Waist Shop, 123 Me. 509, 124 A. 308.

Negotiation.

Cross Reference.—See c. 113, § 173, re assignment of accounts receivable.

Sec. 30. What constitutes negotiation.—An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery; if payable to order it is negotiated by the indorsement of the holder completed by delivery. (R. S. c. 174, § 30.)

Sec. 31. Indorsement; how made.—The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement. (R. S. c. 174, § 31.)

Sec. 32. Indorsement must be of entire instrument.—The indorsement must be an indorsement of the entire instrument. An indorsement, which

purports to transfer to the indorsee a part only of the amount payable or which purports to transfer the instrument to 2 or more indorsees severally, does not operate as a negotiation of the instrument. But where the instrument has been paid in part, it may be indorsed as to the residue. (R. S. c. 174, § 32.)

Sec. 33. Kinds of indorsement.—An indorsement may be either special or in blank; and it may also be either restrictive or qualified, or conditional. (R. S. c. 174, § 33.)

Sec. 34. Special indorsement; indorsement in blank.—A special indorsement specifies the person to whom or to whose order the instrument is to be payable; and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank specifies no indorsee, and an instrument so indorsed is payable to bearer and may be negotiated by delivery. (R. S. c. 174, § 34.)

Sec. 35. Blank indorsement; how changed to special indorsement. —The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement. (R. S. c. 174, § 35.)

Sec. 36. When indorsement restrictive.—An indorsement is restrictive, which either:

I. Prohibits the further negotiation of the instrument; or

II. Constitutes the indorsee the agent of the indorser; or

III. Vests the title in the indorsee in trust for or to the use of some other person.

But the mere absence of words implying power to negotiate does not make an indorsement restrictive. (R. S. c. 174, § 36.)

Sec. 37. Effect of restricting indorsement; rights of indorsee. — A restrictive indorsement confers upon the indorsee the right:

I. To receive payment of the instrument;

II. To bring any action thereon that the indorser could bring;

III. To transfer his rights as such indorsee, where the form of the indorsement authorizes him to do so.

All subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement. (R. S. c. 174, § 37.)

Sec. 38. Qualified indorsement. — A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse" or any words of similar import. Such an indorsement does not impair the negotiable character of the instrument. (R. S. c. 174, § 38.)

Sec. 39. Conditional indorsement. — Where an indorsement is conditional, a party required to pay the instrument may disregard the condition, and make payment to the indorsee or his transferee, whether the condition has been fulfilled or not. But any person to whom an instrument so indorsed is negotiated, will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally. (R. S. c. 174, § 39.)

Sec. 40. Indorsement of instrument payable to bearer.—Where an instrument, payable to bearer, is indorsed specially, it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorser to only such holders as make title through his indorsement. (R. S. c. 174, § 40.)

Sec. 41. Indorsement where payable to 2 or more persons.—Where

an instrument is payable to the order of 2 or more payees or indorsees who are not partners, all must indorse, unless the one indorsing has authority to indorse for the others. (R. S. c. 174, § 41.)

Sec. 42. Effect of instrument drawn or indorsed to person as cashier. — Where an instrument is drawn or indorsed to a person as "Cashier" or other fiscal officer of a bank or corporation, it is deemed prima facie to be payable to the bank or corporation of which he is such officer; and may be negotiated by either the indorsement of the bank or corporation or the indorsement of the officer. (R. S. c. 174, § 42.)

Sec. 43. Indorsement where name misspelled, etc.—Where the name of a payee or indorsee is wrongly designated or misspelled, he may indorse the instrument as therein described, adding, if he thinks fit, his proper signature. (R. S. c. 174, § 43.)

Sec. 44. Indorsement in representative capacity.—Where any person is under obligation to indorse in a representative capacity, he may indorse in such terms as to negative personal liability. (R. S. c. 174, § 44.)

Sec. 45. Time of indorsement; presumption. — Except where an indorsement bears date after the maturity of the instrument, every negotiation is deemed prima facie to have been effected before the instrument was overdue. (R. S. c. 174, § 45.)

Sec. 46. Place of indorsement; presumption.—Except where the contrary appears, every indorsement is presumed prima facie to have been made at the place where the instrument is dated. (R. S. c. 174, § 46.)

Sec. 47. Continuation of negotiable character.—An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise. (R. S. c. 174, § 47.)

Sec. 48. Striking out indorsement. — The holder may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out, and all indorsers subsequent to him, are thereby relieved from liability on the instrument. (R. S. c. 174, § 48.)

Sec. 49. Transfer without indorsement; effect. — Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferor had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferor. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made. (R. S. c. 174, § 49.)

Sec. 50. When prior party may negotiate instrument.—Where an instrument is negotiated back to a prior party, such party may, subject to the provisions of this chapter, reissue and further negotiate the same. But he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable. (R. S. c. 174, § 50.)

Rights of Holder.

Sec. 51. Right of holder to sue; payment.—The holder of a negotiable instrument may sue thereon in his own name; and payment to him in due course discharges the instrument. (R. S. c. 174, § 51.)

Stated in Merrill Trust Co. v. Brown, 122 Me. 101, 119 A. 109.

Sec. 52. What constitutes holder in due course. — A holder in due course is a holder who has taken the instrument under the following conditions:

I. That it is complete and regular upon its face;

Scope of subsection. — This requirement refers to the conditions and appearance of the note itself, its terms, its execution, and its indorsement. These make up the essentials. Jordan v. Goodside, 123 Me. 330, 122 A. 859.

The lack of an internal revenue stamp does not render the instrument incomplete or irregular on its face within the meaning of this section. Jordan v. Goodside, 123 Me. 330, 122 A. 859.

Note made by payee in trust capacity is not regular. — A corporation note signed by its treasurer in behalf of the corporation payable to himself is not regular upon its face. Regularity, within the meaning of this section, cannot be predicated of a note whereof the payee is, in a trust or quasi-trust capacity, the maker. Gilman v. F. O. Bailey Carriage Co., 125 Me. 108, 131 A. 138; Gilman v. F. O. Bailey Carriage Co., 127 Me. 91, 141 A. 321.

II. That he became the holder of it before it was overdue and without notice that it had been previously dishonored, if such was the fact;

This condition is a pure question of fact. Jordan v. Goodside, 123 Me. 330, 122 A. 859.

Note dishonored if one instalment overdue at time of transfer. — When the principal of a note is payable by instalments and one instalment is overdue and unpaid at the time the paper is indorsed and transferred, the whole paper is dishonored, and subject to all equities between the original parties. Hibbard v. Collins, 127 Me. 383, 143 A. 600.

III. That he took it in good faith and for value;

This condition is of fact and law. — This condition is, as regards good faith, a question of fact; as to taking for value, it is a question of law. Jordan v. Goodside, 123 Me. 330, 122 A. 859.

Who deemed purchaser in good faith. — One who takes an assignment of commercial paper before maturity, paying value, without notice of infirmity in title or consideration, is deemed a purchaser in good faith. Merrill Trust Co. v. Brown, 122 Me. 101, 119 A. 109.

IV. That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it. (R. S. c. 174, § 52.)

This condition is a question of fact. Jordan v. Goodside, 123 Me. 330, 122 A. 859.

Section quoted in Merrill Trust Co. v. Brown, 122 Me. 101, 119 A. 109; Madigan v. Lumbert, 136 Me. 178, 5 A. (2d) 278; Home Ins. Co. v. Bishop, 140 Me. 72, 34 A. 22.

Sec. 53. When person not deemed holder in due course.—Where an instrument payable on demand is negotiated an unreasonable length of time after its issue, the holder is not deemed a holder in due course. (R. S. c. 174, § 53.)

Sec. 54. Notice before full amount paid.—Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agree to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him. (R. S. c. 174, § 54.)

Sec. 55. When title defective.—The title of a person who negotiates an instrument is defective within the meaning of this chapter when he obtained the instrument, or any signature thereto, by fraud, duress or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith or under such circumstances as amount to a fraud. (R. S. c. 174, § 55.)

Quoted in part in Madigan v. Lumbert, 136 Me. 178, 5 A. (2d) 278.

Sec. 56. What constitutes notice of defect.—To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of

the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith. (R. S. c. 174, § 56.)

Applied in Mechanics Savings Bank v. Berry, 119 Me. 404, 111 A. 533.

Sec. 57. Rights of holder in due course.—A holder in due course holds the instrument free from any defect of title of prior parties, and free from defenses available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon. (R. S. c. 174, § 57.)

Applied in Merrill Trust Co. v. Brown, 122 Me. 101, 119 A. 109.

Stated in part in Lieberman v. S. D. Warren Co., 125 Me. 392, 134 A. 449.

Cited in Gilman v. F. O. Bailey Carriage Co., 125 Me. 108, 131 A. 138.

Sec. 58. When subject to original defenses. — In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were nonnegotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter. (R. S. c. 174, § 58.)

Quoted in part in Gilman v. F. O. Bailey Carriage Co., 125 Me. 108, 131 A. 138; Gilman v. F. O. Bailey Carriage Co., 127 Me. 91, 141 A. 321; Hibbard v. Collins, 127 Me. 383, 143 A. 600; Madigan v. Lumbert, 136 Me. 178, 5 A. (2d) 278.

Sec. 59. Who deemed holder in due course.—Every holder is deemed prima facie to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as holder in due course. But the last mentioned rule does not apply in favor of a party who became bound on the instrument prior to the acquisition of such defective title. (R. S. c. 174, § 59.)

Upon affidavit filed, holder must prove his status.—Where an affidavit is filed requiring proof of a signature and authorization, a possessor is not necessarily a holder within the meaning of this section. He must prove the signature or the authorization of those on which his status as a holder depends. Lieberman v. S. D. Warren Co., 125 Me. 392, 134 A. 449.

Applied in Milan v. Graham, 131 Me. 220, 160 A. 581.

Liabilities of Parties.

Sec. 60. Liability of maker.—The maker of a negotiable instrument by making it engages that he will pay it according to its tenor and admits the existence of the payee and his then capacity to indorse. (R. S. c. 174, § 60.)

Sec. 61. Liability of drawer.—The drawer by drawing the instrument admits the existence of the payee and his then capacity to indorse; and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder or to any subsequent indorser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negativing or limiting his own liability to the holder. (R. S. c. 174, § 61.)

The liability of the drawer of a check is conditional upon presentment and dishonor. There can be no recovery against him until nor unless this condition is satisfied or waived. Gilman v. F. O. Bailey Carriage Co., 125 Me. 108, 131 A. 138.

And check given as gift is not enforceable by original payee.—If the check is a gift, the drawer's engagement that the bank will pay is without consideration, and while it is good in the hands of an innocent indorsee for value, it is not enforceable by the original payee. But if it is given for a consideration it is a contract,

and if it is dishonored the payee has an action to recover the amount of it against the drawer or, in the event of his death, against his executors or administrators. Guild v. Eastern Trust & Banking Co., 122 Me. 514, 121 A. 13.

Sec. 62. Liability of acceptor.—The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance; and admits:

I. The existence of the drawer, the genuineness of his signature and his capacity and authority to draw the instrument; and

II. The existence of the payee and his then capacity to indorse.
(R. S. c. 174, § 62.)

Sec. 63. When person deemed indorser.—A person placing his signature upon an instrument otherwise than as maker, drawer or acceptor is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity. (R. S. c. 174, § 63.)

An action against an indorser is not an action on the note, as the indorser's contract is distinct from that of the maker of the note. In such an action, the general limitation of six years properly pleaded is a bar to recovery. Portland Savings Bank v. Shwartz, 135 Me. 321, 196 A. 405.

Applied in Ingalls v. Marston, 121 Me. 182, 116 A. 216.

Stated in part in Barton v. McKay, 135 Me. 197, 193 A. 733.

Sec. 64. Liability of irregular indorser.—Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery he is liable as indorser, in accordance with the following rules:

I. If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties.

Quoted in Home Ins. Co. v. Bishop, 140 Me. 72, 34 A. (2d) 22.

II. If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer.

III. If he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee.
(R. S. c. 174, § 64.)

Irregular indorser is entitled to notice of dishonor. — Whether one be an irregular indorser under this section or a regular indorser under § 66, he is entitled to have due demand made upon the maker and due notice of dishonor given to himself. The irregular indorser is no longer a joint maker or an original promisor, as he was prior to the passage of the negotiable instrument act, but an indorser with all that that term implies. Ingalls v. Marston, 121 Me. 182, 116 A. 216.

Cited in Barton v. McKay, 135 Me. 197, 193 A. 733.

Sec. 65. Warranty where negotiation by delivery, etc.—Every person negotiating an instrument by delivery or by a qualified indorsement, warrants:

I. That the instrument is genuine and in all respects what it purports to be;

II. That he has a good title to it;

III. That all prior parties had capacity to contract;

IV. That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate transferee.

The provisions of subsection III do not apply to persons negotiating public or corporation securities, other than bills and notes. (R. S. c. 174, § 65.)

Sec. 66. Liability of general indorser. — Every indorser who indorses without qualification warrants to all subsequent holders in due course:

I. The matters and things mentioned in subsections I, II and III of section 65; and

II. That the instrument is at the time of his indorsement valid and subsisting.

And, in addition, he engages that on due presentment it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder or to any subsequent indorser who may be compelled to pay it. (R. S. c. 174, § 66.)

Applied in Weeks v. Hickey, 129 Me. 339, 151 A. 890; Home Ins. Co. v. Bishop, 140 Me. 72, 34 A. (2d) 22.

Stated in part in Ingalls v. Marston, 121 Me. 182, 116 A. 216.

Sec. 67. Liability of indorser where paper negotiable by delivery. —Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser. (R. S. c. 174, § 67.)

Sec. 68. Order in which indorsers liable.—As respects one another, indorsers are liable prima facie in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsees who indorse are deemed to indorse jointly and severally. (R. S. c. 174, § 68.)

Liability other than by order of indorsements may be shown by implied agreement, parol or otherwise. — On a note alone, this section would be conclusive, unless, of course, it is otherwise indicated on the note itself; but evidence, parol or otherwise, may be admitted to overcome this presumption. Nor is it necessary that an express agreement to the contrary be shown. An implied agreement of a joint liability may satisfactorily appear from the circumstances under which, and the purposes for which, the note was given, and from the acts of the parties. Holston v. Haley, 125 Me. 485, 135 A. 98.

And successive indorsements for joint undertaking may be shown to import joint liability.—Where the officers of a corporation for the furtherance of a joint undertaking in which they are mutually interested, indorse a note for the corporation to obtain the necessary funds to carry on the corporate enterprise, it is sufficient, without an express understanding or agreement between the indorsers, to sustain a finding that there was at least an implied agreement that the obligation thereby assumed was joint and not successive. Holston v. Haley, 125 Me. 485, 135 A. 98.

Quoted in part in Rosenthal v. Levine, 128 Me. 447, 148 A. 675.

Sec. 69. Liability of an agent or broker.—Where a broker or other agent negotiates an instrument without indorsement, he incurs all the liabilities prescribed by section 65, unless he discloses the name of his principal and the fact that he is acting only as agent. (R. S. c. 174, § 69.)

Presentment for Payment.

Sec. 70. Effect of want of demand on principal debtor. — Presentment for payment is not necessary in order to charge the person primarily liable on the instrument; but if the instrument is, by its terms, payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But except as herein otherwise provided, presentment for payment is necessary in order to charge the drawer and indorsers. (R. S. c. 174, § 70.)

Stated in part in Gilman v. F. O. Bailey Carriage Co., 125 Me. 108, 131 A. 138.

Sec. 71. Presentment where instrument not payable on demand and where payable on demand.—Where the instrument is not payable on

demand, presentment must be made on the day it falls due. Where it is payable on demand, presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof. (R. S. c. 174, § 71.)

Sec. 72. What constitutes sufficient presentment. — Presentment for payment, to be sufficient, must be made:

I. By the holder or by some person authorized to receive payment on his behalf;

II. At a reasonable hour on a business day;

III. At a proper place as herein defined;

IV. To the person primarily liable on the instrument or, if he is absent or inaccessible, to any person found at the place where the presentment is made. (R. S. c. 174, § 72.)

Sec. 73. Place of presentment. — Presentment for payment is made at the proper place:

I. Where a place of payment is specified in the instrument and it is there presented;

II. Where no place of payment is specified, but the address of the person to make payment is given in the instrument and it is there presented;

III. Where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment;

IV. In any other case if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence.
(R. S. c. 174, § 73.)

Sec. 74. Instrument exhibited.—The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it. (R. S. c. 174, § 74.)

Sec. 75. Presentment where instrument payable at bank.—Where the instrument is payable at a bank, presentment for payment must be made during banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient. (R. S. c. 174, § 75.)

Sec. 76. Presentment where principal debtor dead.—Where a person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative if such there be, and if, with the exercise of reasonable diligence, he can be found. (R. S. c. 174, § 76.)

Sec. 77. Presentment to persons liable as partners. — Where the persons primarily liable on the instrument are liable as partners and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm. (R. S. c. 174, § 77.)

Sec. 78. Presentment to joint debtors. — Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all. (R. S. c. 174, § 78.)

Sec. 79. When presentment not required to charge drawer.—Pre-

sentment for payment is not required in order to charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument. (R. S. c. 174, § 79.)

Withdrawal of funds by maker after delivering check excuses presentment and notice to him. — A withdrawal from a bank by a depositor of his funds there on deposit, after the making and delivery of a check on such bank, excuses the payee's failure, in an action against the maker, to prove presentment and notice. Gilman v. F. O. Bailey Carriage Co., 127 Me. 91, 141 A. 321.

Sec. 80. When presentment not required to charge indorser.—Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation and he has no reason to expect that the instrument will be paid if presented. (R. S. c. 174, § 80.)

Quoted in Weeks v. Hickey, 129 Me. 339, 151 A. 890.

Sec. 81. When delay in making presentment excused. — Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence. (R. S. c. 174, § 81.)

Cross reference.—See § 169, re application of § 81 to acceptor for honor.

Circumstances of a general nature which excuse delay in making presentment are: (1) Inevitable accident or overwhelming calamity; (2) prevalence of a malignant disease which suspends the ordinary operations of business; (3) the presence of political circumstances amounting to a virtual interruption and an obstruction of the ordinary negotiations of trade; (4) the breaking out of war between the country of the maker and that of the holder; (5) the occupation of the country where the parties live, or where the note is payable, by a public enemy, which suspends commercial intercourse; (6) public and positive interdictions and prohibitions of the state which obstruct or suspend commerce and intercourse; (7) the utter impracticability of finding the maker or ascertaining his place of residence. Viles v. S. D. Warren Co., 132 Me. 277, 170 A. 501.

And certain special circumstances have such effect. — In addition to general circumstances, there are various special circumstances which may excuse delay. Inevitable or unavoidable accident not attributable to the fault of the holder that makes performance impracticable or impossible, which includes that class of accidents, casualties or circumstances which render it morally or physically impossible to make presentment. Viles v. S. C. Warren Co., 132 Me. 277, 170 A. 501.

Section not inconsistent with § 186.— The language of this section is somewhat stronger than that used in § 186, but is not inconsistent with it. Viles v. S. D. Warren Co., 132 Me. 277, 170 A. 501.

Sec. 82. When presentment dispensed with. — Presentment for payment is dispensed with:

I. Where after the exercise of reasonable diligence presentment as required by this chapter cannot be made;

II. Where the drawee is a fictitious person;

III. By waiver of presentment, express or implied.
(R. S. c. 174, § 82.)

Sec. 83. When instrument dishonored by nonpayment.—The instrument is dishonored by nonpayment when:

I. It is duly presented for payment and payment is refused or cannot be obtained; or

II. Presentment is excused and the instrument is overdue and unpaid.
(R. S. c. 174, § 83.)

Sec. 84. Liability of persons secondarily liable, when instrument dishonored.—Subject to the provisions of this chapter, when the instrument

is dishonored by nonpayment, an immediate right of recourse to all parties secondarily liable thereon accrues to the holder. (R. S. c. 174, § 84.)

Sec. 85. Time of maturity.—Every negotiable instrument is payable at the time fixed therein, without grace. When the day of maturity falls upon Saturday, Sunday or a holiday, the instrument is payable on the next succeeding business day which is not a Saturday. Instruments payable on demand may, at the option of the holder, be presented for payment before 12 o'clock noon on Saturday, when that entire day is not a holiday. (R. S. c. 174, § 85. 1953, c. 15.)

Sec. 86. Time; how computed.—Where the instrument is payable at a fixed period after date, after sight or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the date of payment. (R. S. c. 174, § 86.)

Sec. 87. Rule where instrument payable at bank.—Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon. (R. S. c. 174, § 87.)

When a promissory note is payable at any bank in a city or town named, it is a sufficient presentment if at maturity it is actually in a bank in such city or town ready to be delivered on payment. If not paid, it is dishonored. No further evidence of dishonor is necessary. Rosenthal v. Levine, 128 Me. 447, 148 A. 675.

Sec. 88. What constitutes payment in due course.—Payment is made in due course when it is made at or after the maturity of the instrument to the holder thereof in good faith and without notice that his title is defective. (R. S. c. 174, § 88.)

Notice of Dishonor.

Sec. 89. To whom notice of dishonor given.—Except as herein otherwise provided, when a negotiable instrument has been dishonored by non-acceptance or nonpayment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged. (R. S. c. 174, § 89.)

Sec. 90. By whom given.—The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who, upon taking it up would have a right to reimbursement from the party to whom the notice is given. (R. S. c. 174, § 90.)

Sec. 91. Notice given by agent.—Notice of dishonor may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not. (R. S. c. 174, § 91.)

Sec. 92. Effect of notice given on behalf of holder.—Where notice is given by or on behalf of the holder, it inures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given. (R. S. c. 174, § 92.)

Sec. 93. Effect where notice given by party entitled thereto. — Where notice is given by or on behalf of a party entitled to give notice, it inures for the benefit of the holder and all parties subsequent to the party to whom notice is given. (R. S. c. 174, § 93.)

Sec. 94. When agent may give notice.—Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon, or he may give notice to his principal. If he gives notice to his principal, he must do so within the same time as if he were the holder, and the principal upon the receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder. (R. S. c. 174, § 94.)

Sec. 95. When notice sufficient.—A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the instrument does not vitiate the notice unless the party to whom the notice is given is in fact misled thereby. (R. S. c. 174, § 95.)

Sec. 96. Form of notice.—The notice may be in writing or merely oral and may be given in any terms which sufficiently identify the instrument, and indicate that it has been dishonored by non-acceptance or nonpayment. It may in all cases be given by delivering it personally or through the mails. (R. S. c. 174, § 96.)

Applied in Rosenthal v. Levine, 128 Me. 447, 148 A. 675.

Sec. 97. To whom notice given.—Notice of dishonor may be given either to the party himself or to his agent in that behalf. (R. S. c. 174, § 97.)

Sec. 98. Notice where party dead.—When any party is dead, and his death is known to the party giving notice, the notice must be given to a personal representative, if there be one, and if with reasonable diligence he can be found. If there be no personal representative, notice may be sent to the last residence or last place of business of the deceased. (R. S. c. 174, § 98.)

Sec. 99. Notice to partners.—Where the parties to be notified are partners, notice to any one partner is notice to the firm even though there has been a dissolution. (R. S. c. 174, § 99.)

Sec. 100. Notice to persons jointly liable.—Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others. (R. S. c. 174, § 100.)

Sec. 101. Notice to bankrupt. — Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, notice may be given either to the party himself or to his trustee or assignee. (R. S. c. 174, § 101.)

Sec. 102. Time within which notice given.—Notice may be given as soon as the instrument is dishonored; and unless delay is excused as hereinafter provided, must be given within the times fixed by this chapter. (R. S. c. 174, § 102.)

Sec. 103. Where parties reside in same place. — Where the person giving and the person to receive notice reside in the same place, notice must be given within the following times:

I. If given at the place of business of the person to receive notice, it must be given before the close of business hours on the day following;

Quoted in Rosenthal v. Levine, 128 Me. 447, 148 A. 675.

II. If given at his residence, it must be given before the usual hours of rest on the day following;

III. If sent by mail, it must be deposited in the post office in time to reach him in usual course on the day following.
(R. S. c. 174, § 103.)

Sec. 104. Where parties reside in different places.—Where the person giving and the person to receive notice reside in different places, the notice must be given within the following times:

I. If sent by mail, it must be deposited in the post office in time to go by mail the day following the day of dishonor, or if there be no mail at a convenient hour on that day, by the next mail thereafter;

II. If given otherwise than through the post office, then within the time that notice would have been received in due course of mail, if it had been deposited in the post office within the time specified in subsection I.
(R. S. c. 174, § 104.)

Sec. 105. When sender deemed to have given due notice.—Where notice of dishonor is duly addressed and deposited in the post office, the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails. (R. S. c. 174, § 105.)

Sec. 106. Deposit in post office; what constitutes.—Notice is deemed to have been deposited in the post office when deposited in any branch post office or in any letter box under the control of the post-office department. (R. S. c. 174, § 106.)

Sec. 107. Notice to subsequent party; time of.—Where a party receives notice of dishonor, he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor. (R. S. c. 174, § 107.)

Quoted in Rosenthal v. Levine, 123 Me. 447, 148 A. 675.

Sec. 108. When notice sent.—Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows:

I. Either to the post office nearest to his place of residence or to the post office where he is accustomed to receive his letters; or

II. If he lives in one place and has his place of business in another, notice may be sent to either place; or

III. If he is sojourning in another place, notice may be sent to the place where he is so sojourning.

But where the notice is actually received by the party within the time specified in this chapter, it will be sufficient, though not sent in accordance with the requirements of this section. (R. S. c. 174, § 108.)

Sec. 109. Waiver of notice.—Notice of dishonor may be waived, either before the time of giving notice has arrived or after the omission to give due notice, and the waiver may be express or implied. (R. S. c. 174, § 109.)

Sec. 110. Whom affected by waiver.—Where the waiver is embodied in the instrument itself, it is binding upon all parties; but where it is written above the signature of an indorser, it binds him only. (R. S. c. 174, § 110.)

Sec. 111. Waiver of protest.—A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of a formal protest but also of presentment and notice of dishonor. (R. S. c. 174, § 111.)

Sec. 112. When notice dispensed with. — Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, it cannot be given to or does not reach the parties sought to be charged. (R. S. c. 174, § 112.)

Sec. 113. Delay in giving notice; how excused.—Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, notice must be given with reasonable diligence. (R. S. c. 174, § 113.)

Sec. 114. When notice need not be given to drawer.—Notice of dishonor is not required to be given to the drawer in either of the following cases:

I. Where the drawer or drawee are the same person;

II. When the drawee is a fictitious person or a person not having capacity to contract;

III. When the drawer is the person to whom the instrument is presented for payment;

IV. Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument;

V. Where the drawer has countermanded payment.
(R. S. c. 174, § 114.)

Sec. 115. When notice need not be given to indorser.—Notice of dishonor is not required to be given to an indorser in either of the following cases:

I. Where the drawee is a fictitious person or a person not having capacity to contract, and the indorser was aware of the fact at the time he indorsed the instrument;

II. Where the indorser is the person to whom the instrument is presented for payment;

III. Where the instrument was made or accepted for his accommodation.
(R. S. c. 174, § 115.)

Sec. 116. Notice of nonpayment where acceptance refused.—Where due notice of dishonor by non-acceptance has been given, notice of a subsequent dishonor by nonpayment is not necessary, unless in the meantime the instrument has been accepted. (R. S. c. 174, § 116.)

Sec. 117. Effect of omission to give notice of non-acceptance.—An omission to give notice of dishonor by non-acceptance does not prejudice the rights of a holder in due course subsequent to the omission. (R. S. c. 174, § 117.)

Sec. 118. When protest need not be made; when must be made.—Where any negotiable instrument has been dishonored it may be protested for non-acceptance or nonpayment, as the case may be; but protest is not required except in the case of foreign bills of exchange. (R. S. c. 174, § 118.)

Discharge of Negotiable Instruments.

Sec. 119. Instrument; how discharged. — A negotiable instrument is discharged:

I. By payment in due course by or on behalf of the principal debtor;

II. By payment in due course by the party accommodated, where the instrument is made or accepted for accommodation;

III. By the intentional cancellation thereof by the holder;

Burden is on maker to prove discharge of note by intentional destruction. — It is well settled law that if the holder of a promissory note intentionally destroys it, he thereby forgives and discharges the debt evidenced by it and cannot maintain an action based upon the instrument. In a suit upon a note the burden of proving its destruction and a discharge of the debt is upon the maker. Norton v. Smith, 130 Me. 58, 153 A. 886.

IV. By any other act which will discharge a simple contract for the payment of money;

V. When the principal debtor becomes the holder of the instrument at or after maturity in his own right.
(R. S. c. 174, § 119.)

Sec. 120. When persons secondarily liable on, discharged.—A person secondarily liable on the instrument is discharged:

I. By any act which discharges the instrument;

II. By the intentional cancellation of his signature by the holder;

III. By the discharge of a prior party;

IV. By a valid tender of payment made by a prior party;

V. By release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved;

VI. By any agreement binding upon the holder to extend the time of payment or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable or unless the right of recourse against such party is expressly reserved.
(R. S. c. 174, § 120.)

Sec. 121. Right of party who discharges instrument. — Where the instrument is paid by a party secondarily liable thereon, it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements, and again negotiate the instrument, except:

I. Where it is payable to the order of a third person and has been paid by the drawer; and

II. Where it was made or accepted for accommodation and has been paid by the party accommodated.
(R. S. c. 174, § 121.)

Sec. 122. Renunciation by holder. — The holder may expressly renounce his rights against any party to the instrument before, at or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument discharges the instrument. But a renunciation does not affect the rights of a holder in due course without notice. A renunciation must be in writing, unless the instrument is delivered up to the person primarily liable thereon. (R. S. c. 174, § 122.)

Sec. 123. Cancellation; unintentional; burden of proof.—A cancellation made unintentionally or under a mistake or without the authority of the holder is inoperative; but where an instrument or any signature thereon appears to have been canceled, the burden of proof lies on the party who alleges that the cancellation was made unintentionally or under a mistake or without authority.
(R. S. c. 174, § 123.)

Sec. 124. Alteration of instrument; effect. — Where a negotiable instrument is materially altered without the assent of all parties liable thereon, it is avoided, except as against a party who has himself made, authorized or assented to the alteration, and subsequent indorsers.

But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor. (R. S. c. 174, § 124.)

The fact that a material alteration was subsequently erased would not restore validity to the note. Scribner v. Cyr, 148 Me. 329, 93 A. (2d) 126.

Sec. 125. What constitutes material alteration.—Any alteration which changes:

I. The date;

II. The sum payable, either for principal or interest;

III. The time or place of payment;

IV. The number or the relations of the parties;

V. The medium or currency in which payment is to be made;

or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration. (R. S. c. 174, § 125.)

"With interest" written into note by holder after delivery avoids note.—If the words "with interest" are written into a note by the holder thereof after delivery, they will constitute a material alteration of the note. Such alteration will render the note void and will constitute an absolute defense to any action thereon, under the terms of this section and § 124. Scribner v. Cyr, 148 Me. 329, 93 A. (2d) 126.

Bills of Exchange. Form and Interpretation.

Sec. 126. Bill of exchange defined.—A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer. (R. S. c. 174, § 126.)

Sec. 127. Bill not an assignment of funds in hands of drawee.—A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof, and the drawee is not liable on the bill unless and until he accepts the same. (R. S. c. 174, § 127.)

Sec. 128. Bill addressed to more than 1 drawee.—A bill may be addressed to 2 or more drawees jointly, whether they are partners or not; but not to 2 or more drawees in the alternative or in succession. (R. S. c. 174, § 128.)

Sec. 129. Inland and foreign bills of exchange.—An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within this state. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill. (R. S. c. 174, § 129.)

Sec. 130. When bill treated as promissory note. — Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or a promissory note. (R. S. c. 174, § 130.)

Sec. 131. Referee in case of need.—The drawer of a bill and any endorser may insert thereon the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonored by non-acceptance or nonpayment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not, as he may see fit. (R. S. c. 174, § 131.)

Acceptance.

Sec. 132. Acceptance; how made, etc.—The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawee. It must not express that the drawee will perform his promise by any other means than the payment of money. (R. S. c. 174, § 132.)

Sec. 133. Holder entitled to acceptance on face of bill.—The holder of a bill presenting the same for acceptance may require that the acceptance be written on the bill and, if such request is refused, may treat the bill as dishonored. (R. S. c. 174, § 133.)

Sec. 134. Acceptance by separate instrument.—Where an acceptance is written on a paper other than the bill itself, it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value. (R. S. c. 174, § 134.)

Sec. 135. Promise to accept; when equivalent to acceptance.—An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who upon the faith thereof, receives the bill for value. (R. S. c. 174, § 135.)

Sec. 136. Time allowed drawee to accept.—The drawee is allowed 24 hours after presentment in which to decide whether or not he will accept the bill; but the acceptance, if given, dates as of the day of presentation. (R. S. c. 174, § 136.)

Sec. 137. Liability of drawee retaining or destroying bill.—Where a drawee to whom a bill is delivered for acceptance destroys the same or refuses within 24 hours after such delivery, or within such other period as the holder may allow, to return the bill accepted or non-accepted to the holder, he will be deemed to have accepted the same. (R. S. c. 174, § 137.)

Sec. 138. Acceptance of incomplete bill.—A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by nonpayment. But when a bill payable after sight is dishonored by non-acceptance and the drawer subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment. (R. S. c. 174, § 138.)

Sec. 139. Kinds of acceptances. — An acceptance is either general or qualified. A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn. (R. S. c. 174, § 139.)

Sec. 140. What constitutes general acceptance. — An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere. (R. S. c. 174, § 140.)

Sec. 141. Qualified acceptance.—An acceptance is qualified, which is:

I. Conditional, that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated;

II. Partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;

III. Local, that is to say, an acceptance to pay only at a particular place;

IV. Qualified as to time;

V. The acceptance of some one or more of the drawees, but not of all. (R. S. c. 174, § 141.)

Sec. 142. Rights of parties as to qualified acceptance.—The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance, he may treat the bill as dishonored by non-acceptance. Where a qualified acceptance is taken, the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance or subsequently assent thereto. When the drawer

or an indorser receives notice of a qualified acceptance, he must, within a reasonable time, express his dissent to the holder or he will be deemed to have assented thereto. (R. S. c. 174, § 142.)

Presentment for Acceptance.

Sec. 143. When presentment for acceptance made.—Presentment for acceptance must be made:

I. Where the bill is payable after sight, or in any other case, where presentment for acceptance is necessary in order to fix the maturity of the instrument; or

II. Where the bill expressly stipulates that it shall be presented for acceptance; or

III. Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable. (R. S. c. 174, § 143.)

Sec. 144. When failure to present releases drawer and indorser.—Except as herein otherwise provided, the holder of the bill which is required by section 143 to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fails to do so, the drawer and all indorsers are discharged. (R. S. c. 174, § 144.)

Sec. 145. Presentment; how made.—Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour, on a business day and before the bill is overdue, to the drawee or some person authorized to accept or refuse acceptance on his behalf; and:

I. Where a bill is addressed to 2 or more drawees who are not partners, presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only;

II. Where the drawee is dead, presentment may be made to his personal representative;

III. Where the drawee has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.
(R. S. c. 174, § 145.)

Sec. 146. On what days presentment made.—A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections 72 and 85. When Saturday is not otherwise a holiday, presentment for acceptance may be made before 12 o'clock, noon, on that day. (R. S. c. 174, § 146.)

Sec. 147. Presentment where time insufficient.—Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time with the exercise of reasonable diligence to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers. (R. S. c. 174, § 147.)

Sec. 148. Where presentment excused.—Presentment for acceptance is excused and a bill may be treated as dishonored by non-acceptance, in either of the following cases:

I. Where the drawee is dead or has absconded, or is a fictitious person or a person not having capacity to contract by bill;

II. Where, after the exercise of reasonable diligence, presentment cannot be made;

III. Where, although presentment has been irregular, acceptance has been refused on some other ground.
(R. S. c. 174, § 148.)

Sec. 149. When dishonored by non-acceptance.—A bill is dishonored by non-acceptance:

I. When it is duly presented for acceptance, and such an acceptance as is prescribed by this chapter is refused or cannot be obtained; or

II. When presentment for acceptance is excused and the bill is not accepted. (R. S. c. 174, § 149.)

Sec. 150. Duty of holder where bill not accepted.—Where a bill is duly presented for acceptance and is not accepted within the prescribed time, the person presenting it must treat the bill as dishonored by non-acceptance or he loses the right of recourse against the drawer and indorsers. (R. S. c. 174, § 150.)

Sec. 151. Rights of holder where bill not accepted.—When a bill is dishonored by non-acceptance, an immediate right of recourse against the drawers and indorsers accrues to the holder and no presentment for payment is necessary. (R. S. c. 174, § 151.)

Protest.

Sec. 152. In what cases protest necessary.—Where a foreign bill appearing on its face to be such is dishonored by non-acceptance, it must be duly protested for non-acceptance, and where such a bill which has not previously been dishonored by non-acceptance is dishonored by nonpayment, it must be duly protested for nonpayment. If it is not so protested, the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill, protest thereof in case of dishonor is unnecessary. (R. S. c. 174, § 152.)

Sec. 153. Protest; how made. — The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it, and must specify:

I. The time and place of presentment;

II. The fact that presentment was made and the manner thereof;

III. The cause or reason for protesting the bill;

IV. The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.
(R. S. c. 174. § 153.)

Sec. 154. Protest; by whom made.—Protest may be made by:

I. A notary public; or

II. By any respectable resident of the place where the bill is dishonored, in the presence of 2 or more credible witnesses.
(R. S. c. 174, § 154.)

Sec. 155. Protest; when made.—When a bill is protested, such protest must be made on the day of its dishonor, unless delay is excused as herein pro-

vided. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting. (R. S. c. 174, § 155.)

Sec. 156. Protest; where made.—A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business or residence of some person other than the drawee has been dishonored by non-acceptance, it must be protested for nonpayment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary. (R. S. c. 174, § 156.)

Sec. 157. Protest both for non-acceptance and nonpayment. — A bill which has been protested for non-acceptance may be subsequently protested for nonpayment. (R. S. c. 174, § 157.)

Sec. 158. Protest before maturity where acceptor insolvent.—Where the acceptor has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers. (R. S. c. 174, § 158.)

Sec. 159. When protest dispensed with. — Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence. (R. S. c. 174, § 159.)

Sec. 160. Protest where bill lost, etc.—When a bill is lost or destroyed or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof. (R. S. c. 174, § 160.)

Acceptance for Honor.

Sec. 161. When bill accepted for honor.—Where a bill of exchange has been protested for dishonor by non-acceptance or protested for better security, and is not overdue, any person not being a party already liable thereon may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon, or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for the part only of the sum for which the bill is drawn; and where there has been an acceptance for honor for one party, there may be a further acceptance by a different person for the honor of another party. (R. S. c. 174, § 161.)

Sec. 162. Acceptance for honor; how made.—An acceptance for honor supra protest must be in writing and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor. (R. S. c. 174, § 162.)

Sec. 163. When deemed an acceptance for honor of drawer.—Where an acceptance for honor does not expressly state for whose honor it is made, it is deemed to be an acceptance for the honor of the drawer. (R. S. c. 174, § 163.)

Sec. 164. Liability of acceptor for honor.—The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted. (R. S. c. 174, § 164.)

Sec. 165. Agreement of acceptor for honor.—The acceptor for honor, by such acceptance, engages that he will on due presentment pay the bill according to the terms of his acceptance, provided it shall not have been paid by the drawee and provided also that it shall have been duly presented for payment and protested for nonpayment and notice of dishonor given him. (R. S. c. 174, § 165.)

Sec. 166. Maturity of bill payable after sight; accepted for honor. —Where a bill payable after sight is accepted for honor, its maturity is calculated from the date of the noting for non-acceptance and not from the date of the acceptance for honor. (R. S. c. 174, § 166.)

Sec. 167. Protest of bill accepted for honor, etc.—Where a dishonored bill has been accepted for honor supra protest or contains a reference in case of need, it must be protested for nonpayment before it is presented for payment to the acceptor for honor or referee in case of need. (R. S. c. 174, § 167.)

Sec. 168. Presentment for payment to acceptor for honor; how made. — Presentment for payment to the acceptor for honor must be made as follows:

I. If it is to be presented in the place where the protest for nonpayment was made, it must be presented not later than the day following its maturity;

II. If it is to be presented in some other place than the place where it was protested, then it must be forwarded within the time specified in section 104. (R. S. c. 174, § 168.)

Sec. 169. When delay in making presentment excused.—The provisions of section 81 apply where there is delay in making presentment to the acceptor for honor or referee in case of need. (R. S. c. 174, § 169.)

Sec. 170. Dishonor of bill by acceptor for honor.—When the bill is dishonored by the acceptor for honor it must be protested for nonpayment by him. (R. S. c. 174, § 170.)

Payment for Honor.

Sec. 171. Who may make payment for honor.—Where a bill has been protested for nonpayment, any person may intervene and pay it supra protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn. (R. S. c. 174, § 171.)

Sec. 172. Payment for honor; how made. — The payment for honor supra protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honor which may be appended to the protest or form an extension to it. (R. S. c. 174, § 172.)

Sec. 173. Declaration before payment for honor.—The notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays. (R. S. c. 174, § 173.)

Sec. 174. Preference of parties offering to pay for honor.—Where two or more persons offer to pay a bill for the honor of different parties, the person whose payment will discharge most parties to the bill is to be given the preference. (R. S. c. 174, § 174.)

Sec. 175. Effect on subsequent parties where bill paid for honor.—Where a bill has been paid for honor, all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter. (R. S. c. 174, § 175.)

Sec. 176. Where holder refuses to receive payment supra protest. —Where the holder of a bill refuses to receive payment supra protest, he loses his right of recourse against any party who would have been discharged by such payment. (R. S. c. 174, § 176.)

Sec. 177. Rights of payer for honor.—The payer for honor, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest. (R. S. c. 174, § 177.)

Bills in a Set.

Sec. 178. Bills in sets constitute one bill.—Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitutes one bill. (R. S. c. 174, § 178.)

Sec. 179. Right of holders where different parts negotiated.—Where 2 or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is as between such holders the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him. (R. S. c. 174, § 179.)

Sec. 180. Liability of holder who indorses 2 or more parts of a set to different persons.—Where the holder of a set indorses 2 or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills. (R. S. c. 174, § 180.)

Sec. 181. Acceptance of bills drawn in sets.—The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than one part and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill. (R. S. c. 174, § 181.)

Sec. 182. Payment by acceptor of bills drawn in sets.—When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereon. (R. S. c. 174, § 182.)

Sec. 183. Effect of discharging one of set.—Except as herein otherwise provided where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged. (R. S. c. 174, § 183.)

Promissory Notes and Checks.

Sec. 184. Promissory note defined. — A negotiable promissory note within the meaning of this chapter is an unconditional promise in writing made by one person to another, signed by the maker, engaging to pay on demand or at a fixed or determinable future time, a sum certain in money to order or to bearer. Where a note is drawn to the maker's own order, it is not complete until indorsed by him. (R. S. c. 174, § 184.)

Cited in Flynn v. Currie, 130 Me. 461, 157 A. 310.

Sec. 185. Check defined.—A check is a bill of exchange drawn on a bank, payable on demand. Except as herein otherwise provided, the provisions of this chapter applicable to a bill of exchange payable on demand apply to a check. (R. S. c. 174, § 185.)

Quoted in Viles v. S. D. Warren Co., 132 Me. 277, 170 A. 501.

Stated in Merrill Trust Co. v. Brown, 122 Me. 101, 119 A. 109.

Cited in Flynn v. Currie, 130 Me. 461, 157 A. 310.

Sec. 186. Within what time check presented.—A check must be presented for payment within a reasonable time after its issue or the drawer will be

discharged from liability thereon to the extent of the loss caused by the delay. (R. S. c. 174, § 186.)

Drawer of check may expect prompt presentment.—By the great weight of authority, the holder of a check is held to a high degree of care in protecting the maker from loss by reason of the closing of the bank against which the check is drawn. The rule appears to be based on sound grounds from every standpoint, legal, equitable, and moral. The maker, when he deposits money to meet a check which he has mailed to his creditor, has a right to expect the recipient of the check to act promptly in presenting it for payment. There is little that the debtor can do to protect himself after the check leaves his hands. He has every right to expect that the law will be complied with and that he will not be subjected to danger of loss because of avoidable delay in presenting his check for payment. Viles v. S. D. Warren Co., 132 Me. 277, 170 A. 501.

The general rule governing the question of reasonable time for presentation of checks for payment is well established. If the bank on which the check is drawn and the payee are in the same place, the check should be presented during banking hours of the first secular day following its receipt; if in different places, it should be deposited in the mail in like time. Special circumstances may excuse delay in either case, but in their absence the rule is absolute. Viles v. S. D. Warren Co., 132 Me. 277, 170 A. 501.

Applied in Gilman v. F. O. Bailey Carriage Co., 127 Me. 91, 141 A. 321.

Sec. 187. Certification of check; effect.—Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance. (R. S. c. 174, § 187.)

Sec. 188. Effect where holder of check procures it to be certified.—Where the holder of a check procures it to be accepted or certified the drawer and all indorsers are discharged from liability thereon. (R. S. c. 174, § 188.)

Sec. 189. When check operates as assignment.—A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check. (R. S. c. 174, § 189.)

Check as such does not operate as assignment.—Prior to this section there was a division of opinion in the courts as to whether or not a check operated as an assignment. Since its general adoption there has been and still is a lack of accord, but the pronounced weight of authority is in favor of the view that a check, as such, does not operate as an assignment. Foss v. Hume, 130 Me. 22, 153 A. 181.

General Provisions.

Sec. 190. Title.—This chapter may be cited as the "Uniform Negotiable Instruments Act." (R. S. c. 174, § 190.)

Sec. 191. Definitions and meaning of terms.—In this chapter, unless the context otherwise requires:

"Acceptance" means an acceptance completed by delivery or notification.

"Action" includes counterclaim and setoff.

"Bank" includes any person or association of persons carrying on the business of banking, whether incorporated or not.

"Bearer" means the person in possession of a bill or note which is payable to bearer.

"Bill" means bill of exchange and "note" means negotiable promissory note.

"Delivery" means transfer of possession, actual or constructive, from one person to another.

"Holder" means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof.

"Indorsement" means an indorsement completed by delivery.

"Instrument" means negotiable instrument.

"Issue" means the first delivery of the instrument, complete in form, to a person who takes it as a holder.

"Person" includes a body of persons, whether incorporated or not.

"Value" means valuable consideration.

"Written" includes printed and "writing" includes print. (R. S. c. 174, § 191.)

Sec. 192. Person primarily liable on instrument.—The person "primarily" liable on an instrument is the person who by the terms of the instrument is absolutely required to pay the same. All other parties are "secondarily" liable. (R. S. c. 174, § 192.)

Sec. 193. Reasonable time, what constitutes.—In determining what is a "reasonable time" or an "unreasonable time," regard is to be had to the nature of the instrument, the usage of trade or business, if any with respect to such instruments, and the facts of the particular case. (R. S. c. 174, § 193.)

Quoted in Viles v. S. D. Warren Co., 132 Me. 277, 170 A. 501.

Sec. 194. Time, how computed; when last day falls on holiday.—Where the day or the last day for doing any act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day. (R. S. c. 174, § 194.)

Sec. 195. Cases not provided for in chapter.—In any case not provided for in this chapter, the rules of law and equity including the law merchant shall govern. (R. S. c. 174, § 195.)