minute to make a difference. The assignor has given up all his power of trading for the future. His very sign and sign-iron make part of the goods assigned. And another strong badge of fraud is the suspicious hour at which the transaction is done; being only twelve hours before he actually went off. I am therefore clearly of opinion, that the deed is fraudulent and void.

Jury found a verdict for the plaintiffs (*g*).

(*f*) See post, 442, n. (*t*).

(*g*) See *Hooper* v. *Smith*, post, 441; *Law* v. *Skinner*, post, 996.

EASTER TERM,—2 GEO. III. 1762.—K. B. 5 K.L.C 185

MONTEFIORI *v.* MONTEFIORI. A note, given fraudulently, to carry on a marriage treaty, shall be good against the drawer, though given without any consideration.

[Referred to, *Mills* v. *Fox*, 1887, 37 Ch. D. 163.]

S. C. cited 1 Bro. Ch. Ca. 548.

Joseph Montefiori, a Jew, being engaged in a marriage treaty, his brother Moses, to assist him in his designs, and represent him as a man of fortune, gave him a note for a large sum of money, as the balance of accounts between him and his brother Joseph; which balance he (Moses) ac-**[364]**-knowledged to have in his hands; though, in truth, no such balance, or any thing like it, existed. After the marriage had, Moses reclaimed this note, as being given on no consideration; and the matter was referred to arbitration. The arbitrators awarded the note to be delivered up, which Joseph refused to do; upon which the Court was moved for an attachment against him for non-performance of this award; and on his part a cross motion was made to set aside this award, on a suggestion that the arbitrators were mistaken in point of law.

Lord Mansfield, C.J.—The law is, that where, upon proposals of marriage, third persons represent any thing material, in a light different from the truth, even though it be by collusion with the husband, they shall be bound to make good the thing in the manner in which they represented it. It shall be, as represented to be. And the husband alone is intitled to relief, as well as when the fortune, &c. so misrepresented has been specifically settled on the wife: for no man shall set up his own iniquity as a defence, any more than as a cause of action (*h*). The arbitrators therefore being clearly mistaken in point of law, the award must be set aside (*i*).

Dennison and Wilmot, Js., of the same opinion. Foster, absent.

Rule for the attachment discharged; rule for setting aside the award made absolute.

(*h*) So where A., on a treaty of marriage between B. and the daughter of C., concealed from C.'s agent (at B.'s request) a demand, which he had against B., and represented to him that there was no such demand, in order that C. might believe that B. was not in debt to the amount he really was, and might more readily consent to the marriage; an injunction was granted to restrain A. from recovering his demand from B., after the marriage had taken place; *Neville* v. *Wilkinson*, 1 Bro. Ch. Ca. 543; see Mr. Eden's Notes, ibid.; *Eastabrook* v. *Scott*, 3 Ves. jun. 456; *Dalbiac* v. *Dalbiac*, 16 Ves. jun. 125; *Ex parte Carr*, 3 Ves. & B. 111; Bac. Abr. Marriage (D), s. 3. In general the question as to the want of consideration of a bill of exchange or promissory note, may be entered into between immediate parties; see *Jefferies* v. *Austin*, 1 Stra. 674; *Lickbarrow* v. *Mason*, 2 T. R. 71; *Puget de Bras* v. *Forbes*, 1 Esp. 117; see also *Grant* v. *Vaughan*, post, 485, *Guichard* v. *Roberts*, post, 445, and notes. As to whether a promissory note is good as a gift, and an action maintainable thereupon, see *Tate* v. *Hilbert*, 2 Ves. jun. 111.

(*i*) The reasons, which induce an arbitrator to make his award, must appear upon the face of it; or of some paper delivered with and intended to be considered as part of the award, in order to enable the Court to examine them, and set aside the award, if the arbitrator has mistaken the law; *Kent* v. *Elstob*, 3 East, 18; and they will not set it aside, if the law be doubtful; *Richardson* v. *Nourse*, 3 B. & A. 237. See *Pickering* v. *Watson*, post, 1117.