A presentation by Siddhant Sharma

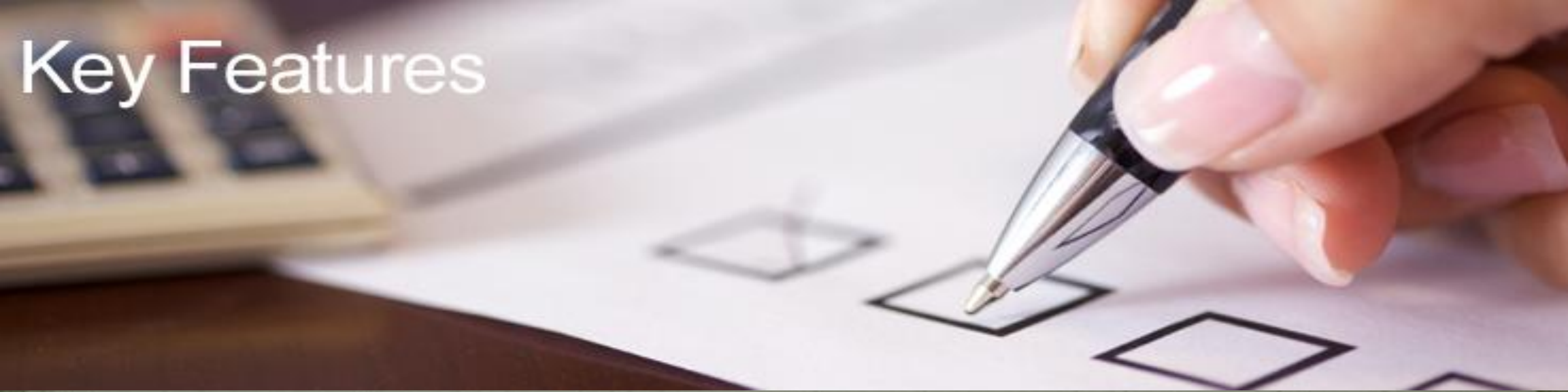
INTRODUCTION TO NEGOTIABLE INSTRUMENTS ACT, 1881

The Negotiable Instruments Act was enacted in India, in 1881. Prior to its enactment, the provision of the English Negotiable Instrument Act were applicable in India. The present Act is also based on the English Act with certain modifications and alterations. It extends to the whole of India except the State of Jammu and Kashmir. The Act operates subject to the provisions of Sections 31 and 32 of the Reserve Bank of India Act, 1934.

MEANING OF NEGOTIABLE INSTRUMENT

According to Section 13 (1) of the Negotiable Instruments Act, "A negotiable instrument means a promissory note, bill of exchange, or cheque payable either to order or to bearer". "A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees" [Section 13(2)].

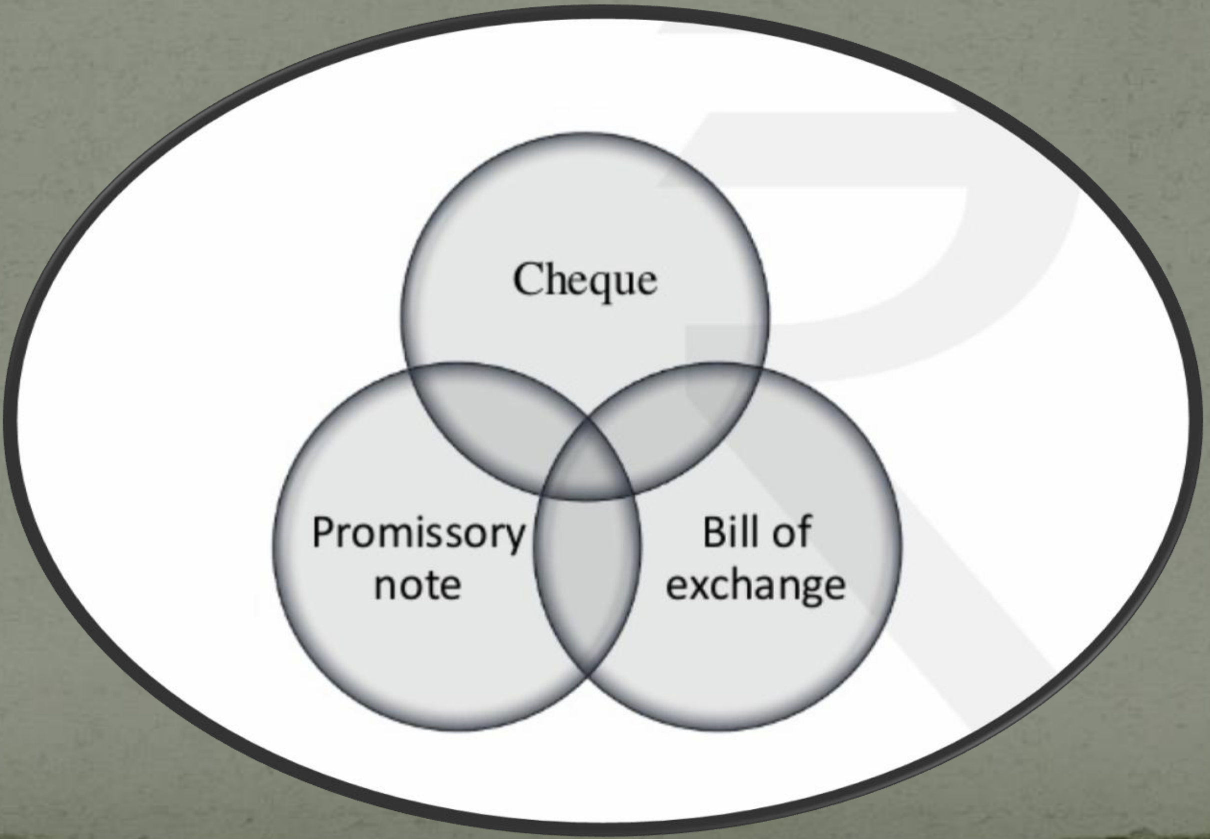
Key Features

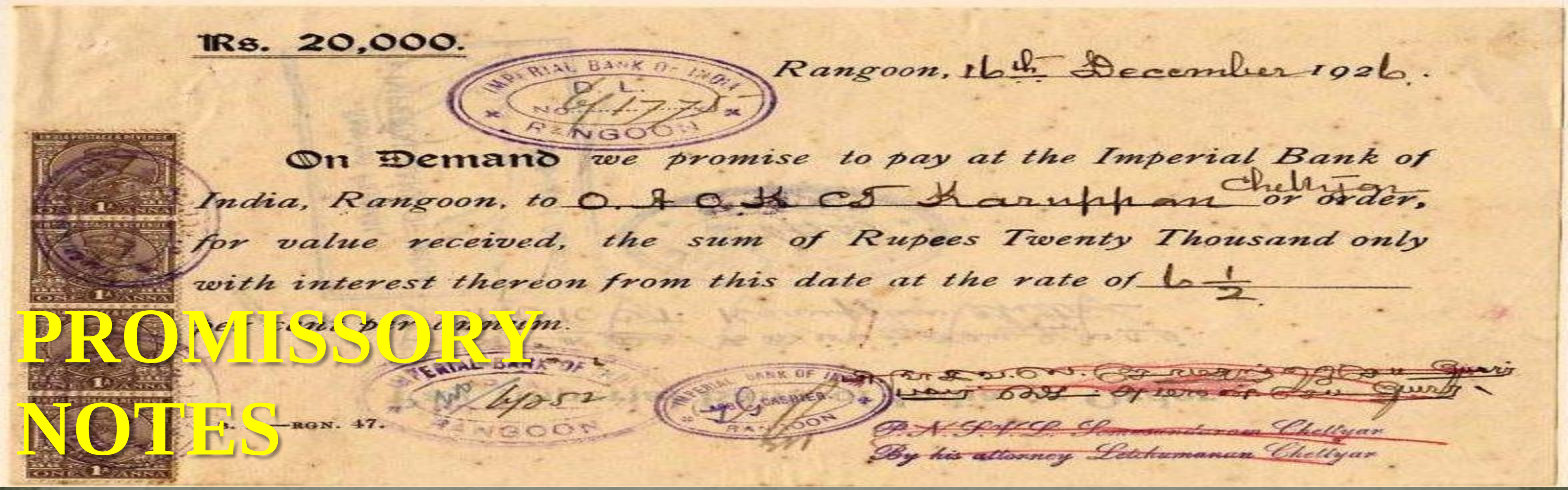


- The term negotiable instruments means a written document which entitles a person to a sum of money.
- A negotiable instruments is transferable by delivery or by endorsement and delivery.
- The transfer entitles a person to the sum of money mentioned therein.
- “Thus the negotiable instrument is a document which is legally recognized by custom of trade or law, transferable by delivery or by endorsement and delivery.”

TYPES OF NEGOTIABLE INSTRUMENTS

Section 13 of the Negotiable Instruments act mentions only three kinds of negotiable instruments namely-





PROMISSORY NOTES

Section 4 of the Act defines, “a promissory note is an instrument in writing (note being a bank-note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money to or to the order of a certain person, or to the bearer of the instruments.”

The person who makes the promissory note and promises to pay is called the maker. The person to whom the payment is to be made is called the payee.

ESSENTIALS OF A PROMISSORY NOTE

- It must be in writing.
- It must contain a promise or undertaking to pay a definite sum of money.
- The promise to pay must be unconditional.
- It must be signed by the maker.
- The payee must be identified & must be certain.
- The sum payable must be certain.

PARTIES TO A PROMISSORY NOTE

- **Maker**: Maker is the person who promises to pay the amount stated in the note.
- **Payee**: Payee is the person to whom the amount of the note is payable.
- **Holder**: He is either the payee or the person to whom the note may have been endorsed.

Promissory Note Template

Promissory Note

Amount: ______________________________ **Date:** DD/MM/YYYY

Place: ______________________________

I Mr. ABC, make commitment to pay XYZ Company, the Sum of $________________________. Repayment is to be made in the form of 200 equal payments at the interest rate of_______ of $______________ payable on the 1oth of each month, beginning 10/01/2011 until the total amount of debt is paid.

IN WITNESS WHEREOF, *I set my hand under seal this _____ [the day] of __________________ [month], 20___ and I acknowledge receipt of a completed copy of this instrument.*

____

Name & Address: *[Party name]*

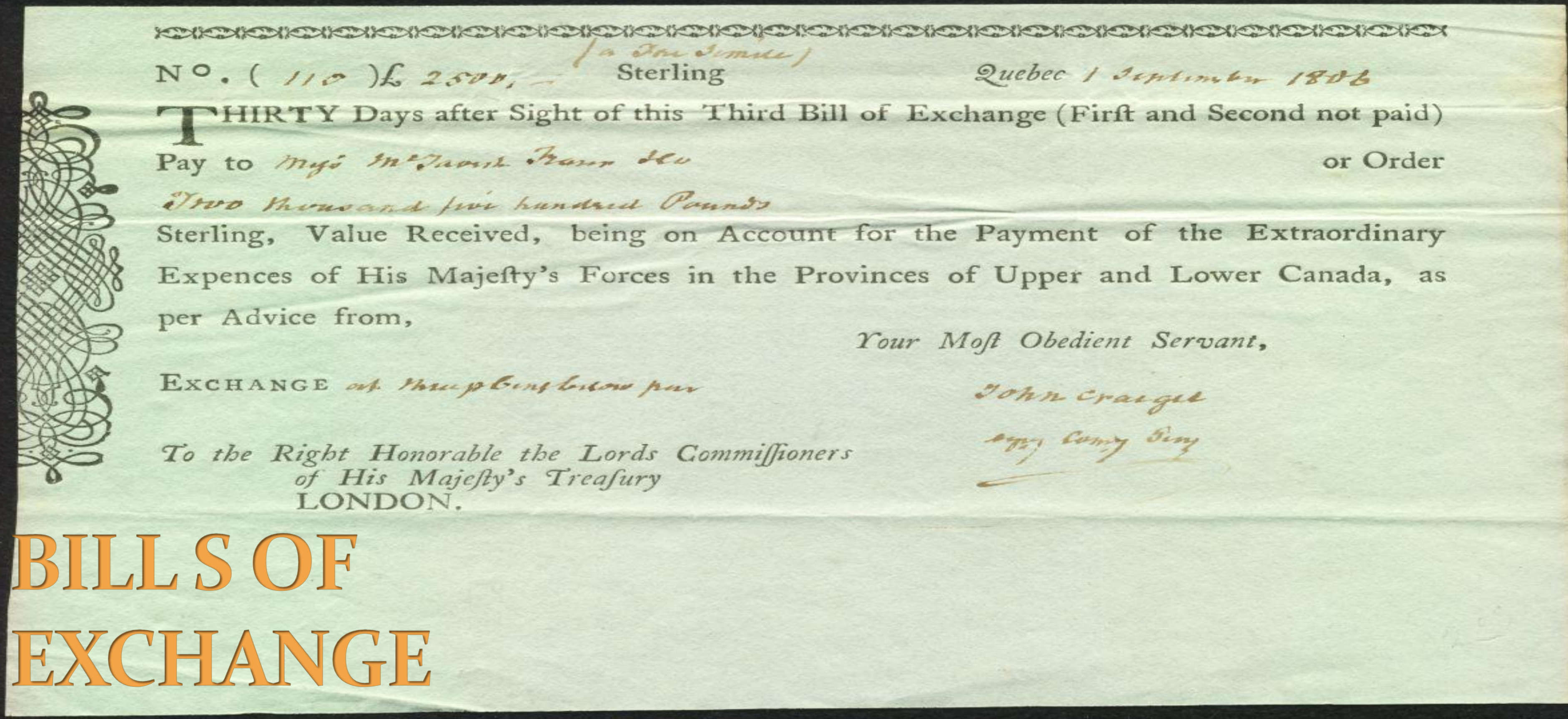
Notary Public - SEAL

____

Sign: *[Signature of borrower]*

My Commission Expire

_______/_______/__________



N°. (110)£ 2500, — Sterling Quebec 1 September 1806

THIRTY Days after Sight of this Third Bill of Exchange (Firſt and Second not paid)

Pay to Messrs McTavish Fraser & Co or Order

Two thousand five hundred Pounds

Sterling, Value Received, being on Account for the Payment of the Extraordinary Expences of His Majeſty's Forces in the Provinces of Upper and Lower Canada, as per Advice from,

Your Moſt Obedient Servant,

EXCHANGE at three p Cent below par

John Craigie

To the Right Honorable the Lords Commiſſioners of His Majeſty's Treaſury
LONDON.

BILL S OF EXCHANGE

According to Section 5 of the act, A bill of exchange is "an instrument in writing containing an unconditional order signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument". It is also called a Draft.

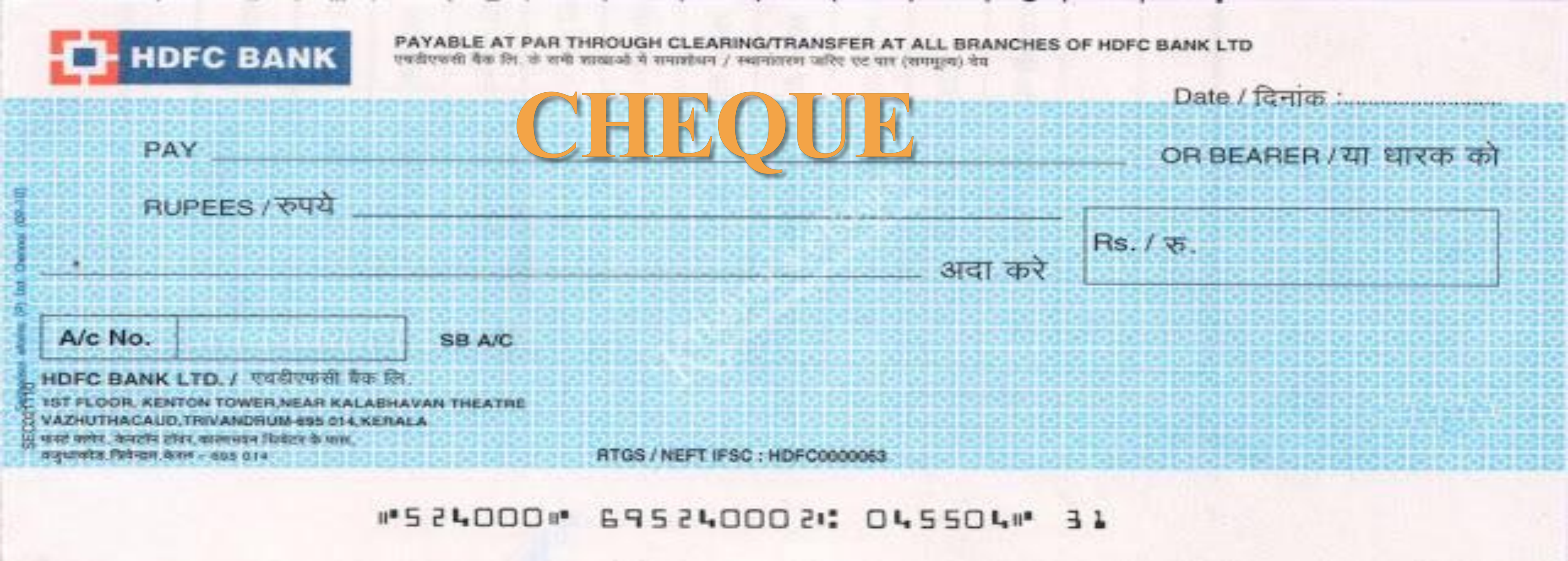
FEATURES OF BILL OF EXCHANGE

- The amount payable must be certain.
- The payment must be made in money.
- The bill payable may be either on demand or after a specified period.
- The bill may be payable either to the bearer or to the order of payee.

PARTIES TO A BILL OF EXCHANGE

- **Drawer:** The maker of a bill of exchange is called the drawer.
- **Drawee:** The person directed to pay the money by the drawer is called the drawee.
- **Payee:** The person named in the instrument, to whom or to whose order the money are directed to be paid by the instruments are called the payee.
- **Acceptor**: When the drawee accepts the bill is called acceptor

CHEQUE



According to Section 6 of the act, A cheque is "a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand". A cheque is also, therefore, a bill of exchange with two additional qualification:

- It is always drawn on a specified banker.
- It is always payable on demand.

ESSENTIAL ELEMENTS OF A CHEQUE

- It should be in writing
- A cheque should be a express Order to Pay
- It should be definite and unconditional Order
- It should be signed by the Drawer
- Order to Pay Certain Sum
- Order to Pay Money Only
- There have to be three certain Parties
- Drawn upon a Specified Banker
- Payable on Demand

PARTIES TO A CHEQUE

- **Drawer:** Drawer is the person who draws the cheque.
- **Drawee:** Drawee is the drawer's banker on whom the cheque has been drawn.
- **Payee:** Payee is the person who is entitled to receive the payment of a cheque.

DISHONOUR OF CHEQUE

The Negotiable Instruments Act, 1881 makes the dishonour of cheques a criminal offence. **Section 138** of Negotiable Instruments Act provides the dishonour of cheques for the following reasons:

- Insufficiency of funds, and
- Signature on the cheque does not match that in the bank records.

NEGOTIATION

According to section 14 of the Act, 'when a promissory note, bill of exchange or cheque is transferred to any person so as to constitute that person the holder thereof, the instrument is said to be negotiated.' The main purpose and essence of negotiation is to make the transferee of a promissory note, a bill of exchange or a cheque the holder there of.

Negotiation thus requires two conditions to be fulfilled, namely:

- There must be a transfer of the instrument to another person; and
- The transfer must be made in such a manner as to constitute the transferee the holder of the instrument.

MODES OF NEGOTIATION

- **Negotiation by delivery (Sec. 47):** Where a promissory note or a bill of exchange or a cheque is payable to a bearer, it may be negotiated by delivery thereof. Example: A the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep it for B. The instrument has been negotiated.
- **Negotiation by endorsement and delivery (Sec. 48):** A promissory note, a cheque or a bill of exchange payable to order can be negotiated only be endorsement and delivery. Unless the holder signs his endorsement on the instrument and delivers it, the transferee does not become a holder. If there are more payees than one, all must endorse it.


thank you
danke
謝謝
ngiyabonga
teşekkür ederim
gracias
merci
obrigado
dziękuję
bedankt
go raibh maith agat
mochchakkeram
sukriya
kop khun krap
arigatô
grazie
dakujem
terima kasih
감사합니다
ありがとう
спасибо
мерси
ευχαριστώ
tapadh leat