

Case No. 653.

AULD ET AL. V. MANDEVILLE.

[2 Cranch, C. C. 167.]¹

Circuit Court, District of Columbia.

April Term, 1819.

NEGOTIABLE INSTRUMENTS—DEMAND—LAST DAY OF GRACE.

Notice to the indorser on the third day of grace, although after bank hours, is too soon. [See note at end of case.]

At law. Assumpsit, against the indorser of Griffith's note. Demand of payment from the maker was made before three o'clock on the last day of grace, and payment being refused, the notary gave notice to, and demanded payment from, the defendant after three o'clock of the same day.

THE COURT, upon the authority of the cases decided in Washington, viz: *Lindenberg v. Beale*, [Case No. 8,359,) and *Beeding v. Pic*, [Id. 1,227,] rendered judgment for the defendant upon the case stated and referred to in the verdict of the jury.

[NOTE. This decision was evidently in recognition and enforcement of the usage of the banks in the District of Columbia to demand payment of commercial paper the day after the last day of grace. Other cases to like effect are *Coyle v. Gozzler*, Case No. 3,312; *Bank of Alexandria v. Wilson*, Id. 856; *Brent v. Coyle*, Id. 1,837; *Hill v. Norvell*, Id. 6,497; *Bank of Columbia v. McKenny*, Id. 874; *Mills v. Bank of U. S.*, 11 Wheat. (24 U. SO 431; *Adams v. Otterback*, 15 How. (56 U. S.) 539; *Bank of Washington v. Reynolds*, Case No. 954; *Bank of Columbia v. Lawrence*, Id. 872; *Patriotic Bank v. Farmers' Bank*, Id. 10,811; *Renner v. Bank of Columbia*, 9 Wheat. (22 U. S.) 581. This usage was changed in 1818 by all of the banks of Washington and Georgetown "so as to conform to the general commercial usage of demanding payment on the last day of grace." *Cookendorfer v. Preston*, 4 How. (45 U. S.) 317. This change in usage or custom was also recognized in the following cases, requiring demand to be made on the last day of grace: *Beeding v. Pic*, Case No. 1,227; *Auld v. Peyton*, Id. 654; *Lenox v. Roberts*, 2 Wheat (15 U. S.) 373; *Bank v. Walker*, Case No. 903; *Bank of Washington v. Triplett*, 1 Pet (26 U. S.) 25.]

¹ [Reported by Hon. William Cranch, Chief Judge.]