

Case No. 903. BANK OF THE METROPOLIS v. WALKER.
[2 Cranch, C. C. 294.]¹

Circuit Court, District of Columbia.

April Term, 1822.

NEGOTIABLE INSTRUMENTS—TIME OF DEMAND—NOTICE TO INDORSER.

If payment of a promissory note be demanded of the maker on the third day of grace, after banking hours, and notice of the non-payment be given to the indorser on the next day, the demand is not too soon, nor the notice too late.

[See *Bank of Alexandria v. Wilson*, Case No. 856; *Lenox v. Wright*, Id. 8,249; *Read v. Carberry*, Id. 11,604.]

[At law. Action upon a contract of indorsement by the Bank of the Metropolis against Joseph Walker. "Verdict was given for plaintiff, subject to the opinion of the court upon a case stated. Judgment is now given for plaintiff. Thereafter a rule upon the marshal to show cause why certain moneys levied by him upon the defendant's land in another action should not be paid in satisfaction of the judgment in this case was discharged in *Bank of the Metropolis v. Walker*, Case No. 904.]

Assumpsit against the last indorser of Toppan Webster's note for 81,000, due 10th, 13th January, 1819. All the parties lived near the Bank of the Metropolis, in the city of Washington. Payment was demanded of the maker, by a notary public, on the 13th of January, the last day of grace, after 3 o'clock P. M., and notice of non-payment was given to the defendant on the next day viz: on the 14th of January. A verdict for the plaintiff was taken subject to the opinion of the court, upon the said facts, whether the demand and notice were competent and sufficient in law to charge the defendant in this action with the payment of the said sum of 81,000, in the said note mentioned. The note was not made payable at any bank, and it was proved to be the practice of some of the notaries in this district to give notice on the day of the demand of payment, and of others to give notice on the next day.

Mr. Jones, for the defendant, cited *Chitty on Bills*, 318, &c. The note must be paid on the three days of grace, when demanded. If not then paid it is dishonored, and notice should be given immediately. All the parties lived within a few minutes' walk of each other. Notice should be given on the same day. *Tassell v. Lewis*, 1 Ld. Raym. 743. In *Lenox v. Roberts*, 2 Wheat. [15 U. S.] 373, the supreme court of the United States said, that notice must be given by mall on the third day of grace. See, also, 6 East, 3; 15 East, 291; and *Chit. Bills*, (Ed. 1821, by Cary,) 401.

THE COURT stopped Mr. Lear, in reply, and said that the demand and notice were sufficient

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