ritt v. *Todd*. Nor does it prevent us from determining the questions presented here, according to the decisions in other analagous cases. In fine, it decides nothing in regard to such notes, as between maker and holder. And I am not aware of any case in this court, or in the Supreme Court, except the decision in this case of the court below, which in terms dissents from the ruling in *Losee* v. *Durkin*, or attempts to overrule it; and that case which was decided in 1810, held that such a note as this was dishonored when it had been held by the payee for two months and a half, so as to let in the defence against the subsequent holder, by payment to the first holder, while he owned the note.

It may be, that, as against an endorser of such paper, he may be holden, though the maker should have a defence arising between him and a first holder of it, for the reason that, by endorsing the note, he submits his liability without any certain fixed limits as to time, and to some extent consents to have his rights affected by the action of both maker and holder, even though as between *them*, it is due at once, so that the maker may pay it at any time; and the holder may demand payment, or sue the maker without demand at any time; that having endorsed such paper he has no right to complain that neither of them has taken such steps as to retire the note, or fix his liability at an earlier day.

It must be conceded, that under the rule which has obtained in this State, there has always been some doubt and uncertainty when such a note as this would become dishonored by want of demand or non-payment; but such uncertainty need not subject parties to any risk, where due caution is exercised.

I think it is not correct to say that such notes are *intended* for circulation from hand to hand as commercial paper. It is true that they do so circulate to some extent; but, generally, the notes which are issued and used for circulation are payable at a certain day, and in regard to which all the parties know when and how the liabilities of endorsers are to be fixed or discharged.

There is no good reason why such notes should circulate as commercial paper, any more than that paper payable at a time certain, and which is past due, should perform that office; for both alike must be paid whenever the holder requires it. And why should either kind be circulated? The obligation of the maker of either has matured, or, at farthest, matures on demand, which in both cases may be made at once; and if the holder wants to raise money on them, why not apply for payment, and receive it from the party from whom it is due, instead of selling it to some one else, who may the next moment make such demand? The very fact that the holder of such paper offers it for sale or circulation, seems to imply that there is some reason not apparent why he does not demand its payment of the maker. And surely no one can doubt that such paper *is* legally payable immediately after it is issued, if the holder demands it.

Independent of authority, the application of the rule which is held between holder and endorser in *Merritt* v. *Todd*, to the case of holder and maker would leave the time when the note would be payable quite as uncertain as it would be when it becomes dishonored under the rule as claimed by the appellant, while all the maker's actual intentions in issuing the paper might be frustrated; and he must have no right to pay it until the holder choose to demand it. For it cannot be that such note, as against the holder, is not payable until he chooses to demand it; and that, at the same time, the maker may pay it when he pleases. The rule adopted in *Merritt* v. *Todd*, as applied to the endorser, is that the note is due *only on actual demand*, and if it is applied as against the maker, it must be accompanied with all its legal consequences; and, of course, while the holder can require payment sooner or later, as he chooses; the only certainty on the part of the maker is, that he must be certain to have the money ready whenever it is called for, and yet continue liable to pay interest without any right to compel the holder to receive payment until he chooses to do so. And while such rule will enable the holder to carry out any intention that *he* may have had, to loan his money for such a time as is usual when made on the security of commercial paper, it affords no safeguard against a change of such intention on his part, and leaves any such intention of the maker without any protection whatever; for the note is due when demanded. The holder may be as vigilant or negligent as he pleases. The maker and endorser are bound to wait his time; and the only law of the case is his will. If we adopt it in this case, we should change the well established principle, that as to such a note, the statute of limitations commences to run from its date, so that it should commence only from the time of demand made, and thus add still farther to the security of the holder, and to the prejudice of the maker.

I think the case of *Merritt* v. *Todd* has extended the principle of continuing security in such a case to the very verge; and that to apply it between holder and maker would be putting the maker in the power of the holder to an extent which is entirely unnecessary. If it is the intention of parties that paper executed between them shall be a continuing security, and as a promissory note for the term of time at which interest is annually computed, it is much better that the paper should be made in such form as shall evidence such intention more clearly, and to give the parties the benefit of it, than to change the law so as to benefit the holder only.

In this country the law is, that a promissory note, payable on demand, unless demanded within a reasonable time, is considered as overdue and dishonored: *Ranger* v. *Cary*, 1 Metc 369; *Croswell's Executors* v. *Arrot*, 1 Sergt. & R. 180; *Loomis* v. *Pulver*, 9 J. R. 244; *Van Hoesen* v. *Van Alstyne*, 3 Wend. 75, 79. And the rule is the same even if expressed to be payable with interest; *Thompson* v. *Hale*, 6 Pick. 259; *Sylvester* v. *Crapo*, 15 Pick. 92; *Newman* v. *Kettelle*, 13 Pick. 418; *Wight* v. *Foster*, 13 Pick. 419; *Nevins* v. *Townsend*, 6 Conn. 5; *Losee* v. *Durkin*, and *Sice* v. *Cunningham*, *infra*. And, as in this State, no absolute measure of this reasonable time has been fixed. A day or two (*Field* v. *Nickerson*, 13 Mass. 131, 137), seven days (*Thurston* v. *McKenn*, 6 Mass. 428), and even a month (*Ranger* v. *Cary*, 1 Metc. 369), is not too long. While eight months (*American Bank* v. *Jenness*,