

quently became again indebted to the bank) and therefore subject to any equities which would be good as against Fox.

So far as the first ground of defence is concerned, the defendants did not succeed in proving, or getting the bank manager to admit, that the fact that the defendants were sureties was known to the bank at any stage of the proceedings prior to the commencement of the action. The manager knew that the note was given as the purchase-price of a share in Fox's business in British Columbia which Living was acquiring, and that the defendants were responsible persons residing near Ottawa; but, so far as appears, he drew no inference as to the existence of the relation of suretyship. For aught he knew, the defendants might be sureties or they might have a silent interest in the business. . . . The first ground of defence, therefore, fails, both as to the alleged extension agreement and as to the lack of notice of dishonour.

The third ground is, in effect, the first ground recast in consequence of the manager's evidence, from which it appeared that the bank had no part in the alleged agreement to give time to the principal debtor. If a binding agreement between Fox and Living to give time to the latter had been proved, in the circumstances alleged, it might have been a serious obstacle in the plaintiffs' way; but I agree with the Chancellor that no binding agreement was proved; and, therefore, the third ground also fails.

The validity of the other grounds of defence turns on the question whether the plaintiffs became the holders of the note in such circumstances that they are entitled to claim free from any defence which might be available between the original parties.

The Chancellor has held that the plaintiffs are holders for value to the extent of Fox's indebtedness to the plaintiffs at the commencement of this action, and are entitled to judgment under secs. 54 and 70 of the Bills of Exchange Act for this amount (\$1,046.90) with interest and costs, and that as to the balance of the \$2,000 and interest the plaintiffs hold as trustees for Fox, who is at liberty to bring action against the makers (in which action the question of failure of consideration could be tried.) . . .

[Summary, in chronological order, of the facts relevant to the bank's interest in the note, omitting any reference to the alleged suretyship or the alleged extension agreement.]

The manager says that the plaintiffs are suing in respect of advances "made to Fox in April, 1908, and subsequent there-