

when it became due; that both the endorser and holder of the note resided at Troy, and that when the note fell due, notice of its nonpayment was given to the endorser.

The circuit judge nonsuited the plaintiff on the ground that demand of payment should have been made of the maker, at his residence in Florida, and that such demand not having been made, the endorser was discharged.

The plaintiff moved for a new trial on a case made.

BY THE CIRCUIT JUDGE.—The note in suit was executed at the city of Troy, where it was dated, and where the endorser, Alexander Suyder, resides; but Martin Suyder, the maker of the note, resided in Florida. Being temporarily at Troy, he made the note, and immediately returned to Florida, where he contrived to reside till long after the note became due. No demand of payment was made from the maker, but when due, it was presented to the endorser at his store in Troy, and demand of payment made there, and due notice of nonpayment given. On the trial at the circuit, a nonsuit was ordered, which the plaintiff now seeks to set aside, and the question is now presented, whether under the circumstances stated, the holder of the note was obliged to send it to Florida to present it, and make demand of payment before he could charge the endorser.

In *Putham v. Sullivan*, 4 Mass. Rep. 83; it was held that where the maker had absconded before the note fell due, no demand was necessary; and in *Widgery v. Monroe*, 6 Mass. 451, it was decided that when the maker was out of the country, when the note became due, the holder was excused, from demanding payment of him. See also *Anderson v. Drake*, 14 John 117. The drawer of a note had removed to Canada: the note was drawn and dated at Albany, though not made payable at any particular place, and it was held that a demand at Albany was sufficient to charge the endorser. In the latter case, Ch. J. Thompson says: "It is necessary that some rule should be settled, and I am inclined to think that when a note is not made payable at any particular place, and the maker has a