2 Metc. 288; *Ayers* v. *Hutchins*, 4 Mass. 370), three months and a half (*Stevens* v. *Brice*, 21 Pick. 193), and even two months and a half (*Losee* v. *Durkin*, 7 J. R. 70; and *Sice* v. *Cunningham*, 1 Cowen, 397, 404), have been deemed sufficient to discredit a note.

The statute of limitations commences to run from the date of a note payable on demand, whether without interest: *Newman* v. *Kettelle*, 13 Pick. 418; *Larson* v. *Lambert*, 7 Halst. 247; *Kingsbury* v. *Butler*, 4 Verm. Report, 458, or whether it be with interest: *Mason* v. *Mohawk Ins. Co.* 13 Wend. 267.

Cowan, J., in *Wethey* v. *Andrews*, and the chief judge, in *Merritt* v. *Todd*, appeared to suppose that in regard to the time when demand notes became due, there was a difference in England between those payable with interest and those on demand merely. And yet I think it will be found that no such distinction prevails there.

Formerly notes on demand were held to be due immediately: *Coop* v. *Doncaster*, Cro. Eliz. 548 Where it was contended that the said demand was parcel of the contract, so that the money was not due until demand, and that a demand by bringing the action would not do, but the court said, the duty of payment was "a duty maintained, and, therefore, these need no demand, as in other cases:" *Remhall* v. *Boyle*, 13 Modern Rep. 38. Where in an action upon a note payable on demand, it was moved in arrest of judgment that no demand was alleged in the declaration; but the court held it to be a debt *in prœsenti*, and that it was a debt plainly precedent to any demand. *Collins* v. *Demming*, 3 Salk, 227, decides the same point, and also holds that the statute of limitations commenced running from the date of the note. And 15 Viner's Abr. 103, note, is to the same point.

It is assumed that the rule in England now is, that a note payable on demand with interest, is a lasting security, and is not dishonoured until payment is demanded. In *Barough* v. *White* (as reported in 4 Barn & Cres. 325), which contains a report of what was said by each of the judges, the question was whether in an action brought by a subsequent holder of a note, on demand, with interest, for which he had paid value, the maker should be allowed to prove the declarations of the first holder while he owned it, that he gave no consideration for it to the maker. It was held that such declarations could not be given. And Bailey, J., in his opinion, says: "In this case no demand was proved, and the note being made payable with interest, to Arnott or order, makes it probable that the parties contemplated that the note should be negotiated for some time." And he also said, that the defendants did not identify the first holder with plaintiff, and that for these reasons the evidence was properly rejected. The three other judges placed their decision on the ground, that the declaration of a prior holder of a note cannot be given in evidence against a subsequent one, but that such alleged facts must be established by other proof. And such is the well settled law in this State. It is true that Littledale, J., also said he thought the note not overdue, and that it seemed to him that it was a lasting security. He, however, does not allude to the fact that it is with interest; and Holroyd, J., says it was not overdue, "for a note payable on demand is not open to the same suspicion, as a note overdue which is made payable at a particular time." In *Brooks* v. *Mitchell*, 9 Mees. & Wels. 15, it was decided that a promissory note payable on demand, with interest, was not to be treated as overdue, so as to affect an endorsee with any equities against the endorser, merely because it was endorsed several years after its date. Not an allusion is made by any member of the court that the note was on interest, and Parke, B., reiterates the assertion, that a promissory note payable on demand, "circulates for years," and "is current for any length of time." And the syllabus of the case takes no notice that the note was with interest.

But I have said, that in England there is no difference, in this respect, between notes on demand with interest, and notes on demand, merely. And I think the manner in which these two cases are treated by the judges, shows that they understood the rule to be, and that they were only applying the same rule to these notes, which they consider applicable to all other notes payable on demand. In *Haywood* v. *Watson*, 4 Bingham, 496, the action was against the maker on a note as follows: "On demand, I promise to pay to Cyrus Morrell, or order, £1,000, value received." Which passed to the plaintiff as subsequent holder long after it was executed, and the defendant attempted to set up a defence to it as against the first holder. But the court ruled that the plaintiff was entitled to recover on the ground, that when the plaintiff took the note it was not dishonored. And Parke, J., said "For though the note was made in 1824, it was payable on demand, and therefore could not be esteemed overdue till demand had been made." And the note was not with interest. I do not know how the English decisions on the subject are to be reconciled, for these cases hold, in conflict with the previous decisions, that all demand notes are continuing securities, and are not overdue or dishonored until actual demand, and yet they continue to decide that the statute of limitations commences to run against them from their date: *Norton* v. *Ellam*, 2 Mees & Wesb. 461. The action was on a note by which the maker promised to pay £400 on demand with simple interest, and the only question presented to the court was, whether the statute ran from the date of the note or from time of the demand. The counsel attempted to draw the distinction that the note was payable with interest, and therefore could not be due immediately, but the Court of Exchequer unanimously repudiated the idea, and say: "Then is there any difference when it is payable with interest? It is quite clear that a promissory note, payable on demand, is a present debt, and is payable without any demand, and the statute begins to run from the date of it. Then the stipulation for compensation in the shape of interest makes no difference, except that thereby the debt is continually increasing *de die in diem*." And as to notes payable on demand that do not stipulate for interest, the English decisions are uniform in declaring that the statute commences to run from their date.