IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE EASTERN DISTRICT OF NORTH CAROLINA.

AT RALEIGH.

D. J. Malloy and J. H. Malloy,	(	
Trading as Malloy Brothers	)	
vs.	(	No. 923.
Federal Reserve Bank of Richmond and	)	
Napier H. G. Balfour.	(	

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Sinclair & Dye of Fayetteville, N. C.

For Plaintiff

M. G. Wallace, of Richmond, Va.

Little & Barnes, of Raleigh, N. C.

For Defendant Federal Reserve Bank.

McCormick & Clark, of Fayetteville, N. C.
For defendant Balfour.

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CONNOR, DISTRICT JUDGE.

Action for recovery of amount of check alleged to have been lost by negligence of defendant, in course of collection.

The parties waived trial by jury and submitted the case to the Court to find the facts and render judgment thereon.

The evidence disclosed the following facts:

Defendant Napier H. G. Balfour, on November 30, 1920, drew and sent to plaintiffs by mail at Quitman, Georgia, his check for Nine Thousand Dollars ($9,000.00) on the Lumber Bridge Bank, a duly chartered and organized

corporation authorized to carry on the business of banking at Lumber Bridge, North Carolina, to be applied to the credit of his indebtedness to plaintiffs, evidenced by his note, secured by mortgage on real estate situated in North Carolina.

Plaintiffs received the check on the morning of December 1st, 1920, credited the amount on Balfour's note, and sent the check properly endorsed, with a deposit slip, on same day, to Perry Banking Company at Perry, Florida, at which place said Banking Company was engaged in the banking business.

The Perry Banking Company, on December 3rd, received the check for collection and credit, and, on the next day, sent to plaintiff a credit card on which was printed, "Checks, drafts, etc. received for collection or deposit, are taken at the risk of the endorser until actual payment is received."

The Perry Banking Company, on the same day, endorsed and sent the check to the Atlantic National Bank of Jacksonville, Florida, and on December 6, 1920, said Bank endorsed and sent it to the branch of Citizens and Southern Bank at Atlanta, Georgia.

The said Bank, December 8th, 1920, endorsed the check with the double endorsement stamp of itself and the Federal Reserve Bank of Atlanta, and sent it to the Federal Reserve Bank of Richmond for collection and credit to the Federal Reserve Bank of Atlanta, Georgia, the Citizens and Southern Bank of Atlanta being a member of the Reserve Bank of Atlanta, Georgia.

On December 10, 1920, the Federal Reserve Bank of Richmond, sent to the Bank of Lumber Bridge a letter containing the Balfour, and several other checks drawn upon said bank, aggregating $9,356.44, for collection and remittance. This letter, by due course of mail between Richmond and Lumber

Bridge, should have been received by the Bank of Lumber Bridge on Saturday, December 11th, 1920. On Tuesday, December 14th, the Cashier of the Lumber Bridge Bank stamped the Balfour check "Paid" and charged it to the account of Balfour on which there was to his credit, subject to check, $9,204.90.

On the same day the Lumber Bridge Bank drew and mailed to the Federal Reserve Bank of Richmond, its check on the Atlantic Banking and Trust Company of Greensboro, North Carolina, for the sum of $9,204.90, the aggregate amount of the checks sent to said bank by the Federal Reserve Bank of Richmond, in its letter of December 10th, less the amount of checks on said Bank for which the drawers did not have balances sufficient to pay.

The Federal Reserve Bank of Richmond received said letter, containing the check, December 15th, 1920, and on same day forwarded the check to the drawee, Atlantic Banking & Trust Company, of Greensboro, North Carolina, for payment. On December 17, 1920, the Atlantic Banking & Trust Company, wired the Federal Reserve Bank of Richmond that the Lumber Bridge Bank did not have sufficient funds to its credit to pay said check.

The defendant, Richmond Bank, on the same day, wired the Lumber Bridge Bank notice of the dishonor of its check, calling upon said Bank to make the check good, which wire the Lumber Bridge Bank answered promissing to do so.

Upon its failure to make the check good, the defendant Richmond Bank sent a representative to Lumber Bridge who reached there on the morning of December 20th, 1920, being Monday, saw the Cashier of the Lumber Bridge Bank and demanded payment of the check on the Greensboro Bank. The Cashier stated that the Bank did not have sufficient funds to pay the amount of its dishonored check on the Greensboro Bank. That the Directors of the Bank

would meet that night and make an effort, by endorsing a note of the Bank to the Bank of Lumberton, North Carolina, upon which the Bank would be able to secure funds with which it could pay the amount of the dishonored check.

On Tuesday morning, December 21, 1920, the Cashier of the Lumber Bridge Bank informed the representative of defendant Richmond bank that the Directors refused to endorse the note with which to secure funds and that he could not pay, or take up, the check. Defendant, the Federal Reserve Bank of Richmond, on the same day, wired the Citizens and Southern Bank of Atlanta, that the Balfour-Malloy check was unpaid and on same day sent a letter to said Bank, stating the facts in connection therewith, and that the amount of the check, Nine Thousand Dollars ($9,000.00), would be charged to the account of said Bank if the Check of the Lumber Bridge Bank was not ultimately paid. Malloy Brothers were promptly notified of the situation. Upon being notified by Malloy, Balfour was informed by the Cashier of the Lumber Bridge Bank that he could not make the check on Greensboro good. Upon appropriate proceedings under the North Carolina statutes, on December 24, 1920, the Lumber Bridge Bank was closed and its assets placed in the custody of a Receiver.

The defendant, Richmond Bank, charged the amount of the check to the Federal Reserve Bank of Atlanta, which charged same to the Citizens and Southern Bank. The several Banks handling the check charged the amount to their several correspondents until it was charged back to Malloy Brothers by the Perry Banking Company. At the date of the institution of this action no dividends had been paid by the Receiver. The defendant Federal Reserve Bank of Richmond retained the check on Greensboro. Upon the trial it was stated that there was reasonable cause to believe that a dividend of 75% would be paid.

The Bank of Lumber Bridge was not a member of the Reserve Bank system, but had, prior to the date of this transaction, pursuant to the Regulations of the Federal Reserve Board (October, 1920, Regulation J) entered into an arrangement with said bank for the collection of checks drawn upon it, at par. The Regulation (1) provides that, "Each Federal Reserve Bank will receive at par from its member banks and from non-member clearing banks, in its district, checks drawn on all member and non-member clearing banks, and on all other non-member banks which agree to remit at par through the Federal Reserve Bank of this District. The same privilege is extended to (2) "Federal Reserve Banks to receive checks for collection from other Federal Reserve Banks and from all member and non-member clearing banks regardless of their location . . . . . Checks drawn upon all member and non-member clearing banks of its district and upon all other non-member banks of its district whose checks are collected at par by the Federal Reserve Bank."

This action was brought in the Superior Court of Cumberland County, North Carolina, and upon petition of defendant Bank, removed into this Court. Plaintiffs, following the allegations covered by the foregoing facts, allege:

"That as plaintiffs are informed and believe, the defendant Reserve Bank of Richmond, negligently mailed said check to the said Bank of Lumber Bridge, and negligently accepted in payment thereof the latter's draft on a Bank in Greensboro, North Carolina, which check the drawee bank on December 14, 1920, marked "Paid" and charged to the account of the drawer, and subsequently charged to the defendant, Napier H. G. Balfour."

"That Balfour had, at the time said check was charged against his account, to-wit: December 14, 1920, on deposit with said Bank of Lumber Bridge an amount sufficient to pay said check of Nine Thousand Dollars ($9,000.00)."

"That the defendant Federal Reserve Bank of Richmond, carelessly and negligently failed to notify plaintiffs that it had not received the money for said check until December 21, 1920 . . . . . and that, as plaintiffs are informed and believe, had the defendant bank notified them of the non-payment of said check promptly, as it was its duty to do, they and the defendant Balfour could and would have collected the said check."

"That, as plaintiffs are informed and believe the defendant Federal Reserve Bank of Richmond, acted as their agent, and that it was careless and negligent in sending said check direct to the drawee bank; in accepting its draft on the Greensboro Bank, in surrendering said check to the Bank of Lumber Bridge, North Carolina, without having collected the money therefor; and in failing to notify plaintiffs until December 21, 1920, that it had not collected said check."

In the light of these allegations several of the questions discussed by counsel become immaterial.

Defendant's counsel insist that plaintiffs can not maintain the action because there is no contractual relation, or privity of contract, between plaintiffs and defendant, the Federal Reserve Bank of Richmond. This argument is based upon the theory that the check became the property of the Perry Banking Company upon its deposit, or that said Banking Company was not authorized, by the deposit of the check for collection, to appoint sub-agents for that purpose and that such other banks as it transmitted the check to, became its agents and not the agents of the owners of the check. This view was, upon the facts in that case, adopted by the Supreme Court of Florida in Brown vs. Peoples Bank, 59 Florida, 163; 52 So. 719; 52 L.R.A.N.S. 608. It is not necessary to do more than refer to the very interesting and learned

discussion by Chief Justice Whitfield in that case because he states, at the conclusion of his opinion, that since the transaction out of which that case arose, but before the decision, the legislature of Florida enacted a statute by which it is provided that:

"When a check is deposited in a bank for collection, it shall be considered due diligence on the part of the bank in the collection of any check, etc. so deposited to forward, en route, the same, without delay, in the usual commercial way in use according to the regular course of business of banks, and that the maker, etc. shall be liable to the bank until actual payment is received."

For the purpose of this discussion the statute authorized the Perry Banking Company to employ sub-agents in making collection of the check, with the result that such sub-agents became the agents of the owner of the check. This statute crystallizes into positive law of the State, the rule which has been adopted in other jurisdictions as the proper method to be pursued and the extent of liability of collecting banks in such cases. This principle has been clearly stated by Judge Bynum, upon the authority of Fabens vs. Mercantile Bank, 23 Pick. 330, Bank vs. Bank, 75 N. C. 534, that:

"It is well settled that, when a note is deposited with a bank for collection, which is payable at another place, the whole duty of the bank so receiving the note in the first instance, is seasonably to transmit the same to a suitable bank or other agent at the place of payment. And as a part of the same doctrine, it is well settled that if the acceptor of a bill or promissor of a note has his residence in another place, it shall be presumed to have been intended and understood between the depositor for collection and the bank that it was to be transmitted to the place of residence of

the promissor". The rule is stated, with citation of authorities pro and con, in 2 Michie on Banks and Banking, Section 162(2). This rule is usually referred to as the "Massachusetts Rule" . In Exchange National Bank vs. Third National Bank, 112 U. S. 276, Justice Blatchford said:

"The authorities which support this rule rest on the proposition that, since what is to be done by a bank employed to collect a draft, payable at another place, can not be done by any of its ordinary officers or servants, but must be entrusted to a subagent, the risk of the neglect of the sub-agent is upon the party employing the bank, on the view that he has implied authority to employ the sub-agent," citing Dorchester Bank vs. New England Bank, 1 Cush. (55 Mass.); Milling Co. vs. Kuester, 158 Ill. and many other decisions.

The result of this rule is that the sub-agent selected by the bank undertaking to collect the check, becomes the agent of the owner of the check, thus establishing the contractual relation between the owner and such sub-agent and entitling the owner to sue either of the sub-agents for breach of duty. Bank vs. Floyd, 142 N. C. 163; Winchester vs. Milling Co., 120 Tenn. 225; 111 S. W. 248.

It is in recognition of this principle that plaintiffs sue the defendant Federal Reserve Bank of Richmond, alleging the relation of principal and agent and breach of duty, in that the defendant Federal Reserve Bank negligently sent the Balfour check for collection to the drawee Bank of Lumber Bridge, thus eliminating several questions discussed by counsel and narrowing the controversy to two questions:

1st. Was the defendant Richmond Bank negligent in sending the check to the drawee bank for collection?

2nd. Was the defendant guilty of negligence in accepting the check

of the Bank of Lumber Bridge on the Greensboro Bank in payment of the Balfour check?

From this view point no question respecting the manner or time in which the Perry Banking Company and its sub-agents, forwarded the check to the several banks and presented it to the drawee for payment. It will tend to simplification of the issues raised by the pleadings and the facts, in respect to which there is no controversy, to ascertain the extent of the liability of defendant bank, by regarding the relations between the parties to this action, as principal and agent, as alleged by plaintiffs.

Approached from this view point, the first question for decision is, whether the defendant Federal Reserve Bank was negligent in the discharge of its duty by sending the check to the drawee Bank of Lumber Bridge. This question has been the subject of much discussion, resulting in differing conclusions. The general principle is stated in Michie on Banks and Banking, 2 Vol. Section 162 (1 b) with citation of authorities. The Supreme Court of North Carolina in Bank vs. Floyd, 142 N. C. 163, held that it was negligent in a bank, having a draft for collection to send it directly to the drawee; that the fact that the drawee was the only bank at the place of payment did not affect the principle, and that no custom to the contrary would excuse the sending bank. The writer of this opinion, writing for the Court, in that case, gave the subject careful investigation and cited the controlling authorities. The legislature of North Carolina, however, at its Session of 1919, Public Laws, Ch. 11, now Section 233, Consolidated Statutes, changed the law in that respect, by enacting a statute providing that "Any banking corporation or banking or trust company, doing a fiduciary business in this State receiving for collection or deposit any check . . . . . drawn upon,

or payable at, any other bank, located in another city or town, within or without this State, may forward such instrument for collection directly to the bank on which it is drawn or at which it is made payable, and such method of forwarding direct to the payer shall be deemed due diligence; and the failure of such payer bank, because of its insolvency or other default, to account for the proceeds thereof, shall not render the forwarding bank liable therefor, provided such forwarding bank shall have used due diligence in other respects in connection with the collection of such instrument. The provisions of this Act shall not apply where there is more than one bank in a town".

Plaintiffs insist that the defendant Federal Reserve Bank of Richmond, is not within the terms of this statute, and can claim no immunity under its provisions, because it is not a banking corporation or banking or trust company "doing a fiduciary business in this State."

I incline to an agreement with plaintiffs' contention that the statute was intended, and its terms apply only to banks organized and doing business in the sense of having its principal office in this State. It is a well settled principle adopted in the construction of statutes, that their provisions in respect to persons coming within their scope, are confined to citizens or corporations resident in the State, unless otherwise clearly expressed.

This question, however, becomes immaterial in this case, because Regulation J(8) made by the Federal Reserve Board provides that:

"In handling items for member and non-member clearing banks,

a Federal Reserve Bank will act as agent only. The Board will require that each member and non-member clearing bank authorize its Federal Reserve Bank to send checks for collection to banks on which checks are drawn and except for negligence, such Federal Reserve Bank will assume no liability."

This regulation, to the extent of its permissive provisions, must be taken to have been known to the Citizens and Southern Bank at Atlanta and the Federal Reserve Bank at Atlanta. The check was sent by them and received for collection by the defendant Reserve Bank of Richmond, subject to the regulation which permitted the Richmond Bank to send the check to the drawee Bank of Lumber Bridge. This was done promptly - the check was mailed at Atlanta, December 8th, mailed by the defendant Federal Reserve Bank, December 10th, 1920, and received by the Lumber Bridge Bank, December 11th, 1920, being Saturday.

The Lumber Bridge Bank was the only Bank in the town of Lumber Bridge. There is no suggestion that, at that time, it was not in good standing and credit, or that defendant Federal Reserve Bank of Richmond had any cause to question its solvency or manner of conducting its business. It had made "a par collection" agreement with defendant Bank.

I am led to the conclusion that the defendant Federal Reserve Bank of Richmond was not negligent in sending the check

to the Lumber Bridge Bank for collection, and that it acted in that respect promptly and in accordance with the terms upon which it accepted and undertook to act as agent in collecting the check.

We are thus brought to the last and determinative averment of negligence: the acceptance by the defendant Federal Reserve Bank of Richmond of the check of the Lumber Bridge Bank on the Greensboro Bank. Preliminary to the decision of this question, it becomes material to ascertain what effect the conduct of the Lumber Bridge Bank had upon the status of the Balfour check and his liability thereon as drawer.

In Bank vs. Floyd, supra, it was conceded that by charging the check to the account of the drawer, its depositor, who had to his credit a balance sufficient to pay it and cancelling it, by the Dunn Bank, occupying in that case, pro hac vice the position of the Lumber Bridge Bank, the check was paid and the drawer released.

In Bank vs. South Weymouth Bank, 184 Mass. 49, the note of a customer of the defendant bank, payable at that bank, and due, was sent by the holder, endorsed "for collection and remittance" to the defendant bank. The makers of the note had to their credit and subject to check in the defendant bank, an amount sufficient to pay the note. Describing the conduct of the cashier of the defendant bank, Hammond, J. says:

"He intends as agent of the makers to pay this note to his own bank, the indorsee and holder, and as such entitled to receive payment and discharge the note. He intends as cashier of his own bank to cancel and discharge the note when paid, and then as agent of the makers to hold the paid note for them. After the note has been paid he intends to send the proceeds to the plaintiff. With these intentions he begins. The note is before him. He first draws on a bank in Boston his check as Cashier of the defendant, payable to the order of the plaintiff, for the amount of the proceeds of the note. It is to be observed that this is not the check of the makers, nor is it made by the Cashier as their agent, but in his capacity as agent of the defendant, and in the performance, not of a duty owed by the makers, but of a duty owed by the defendant to the plaintiff. It is not the check by which the note was paid, because none was needed, but was the check by which the proceeds were to be transmitted by the defendant to the plaintiff. He then makes a memorandum of this check upon a block, stamps upon the face of the note, "Paid Oct. - 1901" and perforates it in three places and puts the note, thus stamped and mutilated, in the file with his checks so that a proper record of the transaction may be entered at the

end of the day upon the permanent books. The Cashier, at this time was called to the 'phone and notified that the makers of the note have made an assignment for the benefit of creditors and is requested by the assignee to hold the account. He withheld the check which he had drawn and undertook to retrace his steps."

In an action by the Bank, owning and sending the note to the defendant Bank, for the proceeds of the note, "in assumpsit for money had and received", the Court held that "prior to the call to the telephone, the note had been paid by the makers to the defendant and that the only remaining duty resting upon the defendant was to remit the proceeds to the plaintiff . . . . . The note was itself equivalent to a check . . . When the Bank, through its cashier, wrote upon the face of the note, in its own name, as the incorsee and holder, that it was paid, and perforated it and put it in the files as a thing paid, nothing more was to be done as to the payment. By those acts there had been set apart and appropriated, to the payment of the note, so much of the deposit then standing to the credit of the makers as was sufficient for that purpose, just as though the makers had presented to the bank their check in payment of a note due it from them." With appropriate changes and arrangement of the parties, the case is, in all essential respects, on "all fours" with the instant case and the conclusion irresistable the same to which the Massachusetts Court came.

The same conclusion was reached by the Suprement Court of Tennessee in Milling Company vs. Black, 120 Tenn. 225, in which it was held that:

"When a check given by a debtor on a certain bank in payment of his debt was by another bank acting as collector for the creditor and payee forwarded for collection or payment to the drawee bank, in which there was more than enough money on deposit to the credit of the drawer at the time the check arrived there to pay the same, whereupon the drawee bank drew its draft upon another bank for the amount of the check and forwarded the same to the collecting bank and charged, cancelled and surrendered the check to the drawer, he was thereby discharged from liability on the debt". In that case it was held that the owner of the original check, by receiving the worthless check, ratified its acceptance by the collecting bank. Corporation Commission vs. Bank, 137 N. C. 697.

It is well settled by these and other authorities, as well as upon principle that when the Cashier of the Lumber Bridge Bank stamped the check "Paid", charged it to his account and delivered it to Balfour, who had to his credit, subject to his check, an amount more than sufficient to pay his check, that the check was paid and his liability as maker or drawer discharged.

The Lumber Bridge Bank on December 14th, 1920, had credit balances as follows: Atlantic Banking & Trust Company, Greensboro, $6,225,01; American National Bank, $8,157.00; Merchants National Bank, $3,000.00; the National Bank, $2,549.96; Cash, $4,574.69, Merchants National Bank, Raleigh, $379.75, aggregating $16,810.98.

The dealings between the Lumber Bridge Bank and the Atlantic Banking & Trust Company between December 14th and December 18th, did not materially change the state of its accounts, nor does it appear that the available assets of the Lumber Bridge Bank were reduced prior to

December 24th, 1920.

The question is presented - what, upon this state of the case, was the measure or standard of duty owed by the defentant Federal Reserve Bank of Richmond to the plaintiffs, owners of the check, in respect to the receipt from the Lumber Bridge Bank of its check on the Greensboro Bank.

The authorities appear to be practically uniform in holding that, in the absence of any instruction or permission from the owner of the check, or any custom brought to the notice of such owner to the contrary the bank had no authority to accept or receive in payment of the check entrusted to it for collection anything other than money.

Among many other decided cases the following are cited as sustaining this proposition.

In Ward vs. Smith, 74 U. S. 447, Justice Field says:

"When the instrument is lodged with the bank for collection, the bank becomes the agent of the payee or obligee to receive payment. The agency extends no further and without special authority an agent can only receive payment of the debt due his principal in the legal currency of the country or in bills which pass as money at their par value, by the common consent of the community." Midland National Bank vs. Brightwell, 148 Mo. 358; 71 Am. St. Rep. 608. In Fifth National Bank vs. Ashworth, 123 Penn. 212; 2 L. R. A. 402, Paxson, J. says:

"It is safe to say, as a general rule, that when a bank receives a check from one of its depositors for collection, it must return him the check or the money. It is also equally clear that if the collecting bank surrenders the check to the bank upon which it is drawn and accepts the

cashier's check or other obligation, in lieu thereof, its liability to its depositor is fixed - as much so as if it had received the cash. It has no right, unless it is specially authorized to do so, to accept anything in lieu of money."

In that case, W. gave to A. his check on the Penn Bank. On the same day A. endorsed the check to the Fifth National Bank, with whom he was a depositor, which sent the check to the Penn Bank and received in return therefor a cashier's check, delivering to A. his check. The cashier's check was protested for non-payment and the Penn Bank went into liquidation.

The Judge Said:

"The plaintiff (Ashworth) has neither his check nor his money. Watson's account with the Penn Bank was good when the account was charged up to him. I am unable to see, therefore, that the plaintiff has any remedy against either Watson or the Penn Bank."

In National Bank vs. Am. Exch. Bank, 155 Mo. 320; 74 Am.St. Rep. 527, the Court quotes with approval 2 Daniel on Negotiable Instruments (4th Ed.) Section 1625.

In the United States it is quite certain that a banker, or other agent, holding a bill or note for collection, would act at his peril in delivering up a receipt or a check for the amount; and that if the debtor did not pay the amount in money, and the drawer, or endorser, were not duly notified, they would be discharged and the loss would fall on the collecting agent . . . . This seems to us the correct doctrine, for the agent exceeds authority in taking the check, and, therefore, acts at his peril, And while it may be, and as a general rule undoubtedly is,

the practice of creditors, in mercantile communities, to take checks in the collection of debts, and frequently to surrender other instruments on receiving them, such a practice on the part of a principal, falls far short of a usage which would permit the agent to do likewise." Bank vs. Cummings, 89 Tenn. 609; 24 Am. St. Rep. 618. There is no evidence of any custom existing either in Virginia or North Carolina, by which collecting banks are authorized to accept from their agents or sub-agents, or from the drawee banks in settlement of collections sent them, anything other than money in settlement of such collections. Plaintiff J. H. Malloy testified that he was engaged in the lumber business and knew "very little about the workings of a bank - did not instruct the Perry Banking Co. - just sent the check down there for credit during the course of business."

I am of the opinion that the defendant Federal Reserve Bank of Richmond was not authorized to accept in payment of the proceeds of the check from the Lumber Bridge Bank, its check or draft on the Greensboro Bank, and that, in doing it, was negligent, or probably to state the situation more clearly, it exceeded its authority and is liable to plaintiffs for the amount of the Balfour check, unless it may reduce the amount by showing that on the date of its acceptance, December 15, 1920, it was impossible for the Lumber Bridge Bank to pay the amount in money or its equivalent.

The Lumber Bridge Bank had, on December 14th, $16,810.00 and, so far as appears, on December 24, 1920, when it went into the hands of a Receiver, cash $4,574.00, and which, with balances in other banks, ag-

gregated about $11,000.00. It held also bills and notes to an amount not stated in the evidence.

It was not until the last named day that a Receiver was appointed. During this time, the plaintiffs were without any remedy against Balfour, whose check was paid on December 14th, or the Lumber Bridge Bank, whose check was held, and is now held, for the proceeds of the Balfour check by defendant Bank.

I am of the opinion that, upon the undisputed facts, the defendant Reserve Bank of Richmond is liable to the plaintiffs for the amount of the Balfour check.

Judgment will be signed that defendant Balfour is not liable as maker or drawer of the check, and that plaintiffs recover of defendant Federal Reserve Bank of Richmond Nine Thousand Dollars, with interest from December 14, 1920, and the cost to be taxed by the Clerk.

Raleigh, North Carolina,

July 1920.

United States District Judge.