

and if the holder found it necessary to sue in order to recover payment, he could proceed against both at once, or against either one, just as he thought best. If he sued one and collected the whole amount from him, then that one, if they were equally interested, could sue and collect half from the other, including half of the costs of the previous suit. But if the party who paid the note happened to be a mere surety for the other, he would collect the whole amount from the other party who received the value.

178 Joint Promissory Note.

A joint note is written "we promise to pay," or "we jointly promise to pay," and signed by two or more persons, who are not partners.

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| Due _____ | D _____ |
| <i>Quebec Sept 4, 1910</i> | |
| <i>Ninety days after date we promise to pay</i> | |
| <i>to the order of J. W. Lamoreaux</i> | |
| <i>at The Bank of Ottawa, here \$140.50</i> | |
| <i>One Hundred and forty ⁵⁰/₁₀₀ Dollars</i> | |
| <i>for value received</i> | <i>A. N. Angers</i> <i>W. R. St. John</i> |

In the above form both parties are supposed to have received value and agree to pay it jointly. If it should become necessary to sue in order to collect it, the parties must be sued jointly. If, however, one of the parties left the country and his address could not be ascertained so as to serve him, he may be served *substitutionally*. That is done by obtaining an order from the County Judge to serve another member of the family, or otherwise as he may direct. Suit could then proceed against the other party.

In the Province of Quebec, where the French law governs contracts, each one of the joint makers of this note is liable for half the amount only.

But in all the other Canadian provinces where the English law governs contracts the preponderance of legal opinion seems to be that the liability is "joint and several," and that the whole amount may be collected from either party. Although the Bills of Exchange Act, Section 179, reads, "A promissory note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor," yet according to McLaren, page 441 of 1909 edition, and in *Cook v. Dodds*, L. R. 608, either party is liable for the whole amount, except in the Province of Quebec.

179 Partnership Promissory Note.

A partnership note is usually written "we" promise to pay, but in that case it is not in fact a joint note, although it has that form, but is a joint and several note. Although three or four may sign, each member of the partnership is individually liable for payment of the whole note on account of the partnership laws. In suing a partnership note or account the *firm name* must be used.

180 Non-Negotiable Notes.

Non-negotiable notes are given for a specific purpose and must conform in wording to the Bills of Exchange Act in order not to be held as negoti-