it speaks generally of land five years in arrear. It provides for the ascertaining of any occupations of the land, and as soon as an occupation is found, then the arrears are to be put into the collector's roll: they are to be "added and included to the taxes assessed for the current year." No express direction is given as to keeping them separate from the current taxes.

Down to 1865, when the plaintiff became tenant, the land was simply assessed as non-resident land. In 1865 the owner was apparently known, as the avowry states that he was duly notified, and the plaintiff was assessed as occupant. It does not appear that the owner had ever desired to be entered as owner.

We have, therefore, an occupant becoming such for the first time in 1865, after all arrears accrued. These arrears are added to his current assessment for 1865 They are to be collected "in the same manner and subject to the same conditions as all other taxes entered upon the collector's roll."

We think they could certainly be collected by distress of any chattels on the land. The plaintiff's taxes for the current year 1865 could be collected by seizure of the goods found anywhere in Etobicoke, or indeed within the county. This is done under sec. 96, "*in case any person neglects to pay his taxes,*" the collector may levy "by distress of the goods and chattels *of the person who ought to pay the same,*" wherever found in the county.

The next section provides, that in case of lands of non-residents distress can only be made upon the land itself.

The act of 1863 places the arrears on the same footing as taxes assessed in the ordinary way against an occupant. This, however, is apparently only as to the manner of their collection; it does not declare any personal liability against an occupant. The taxes for 1865 assessed on the plaintiff as occupant, were clearly "his taxes," and he was the person "who ought to pay the same," under sec. 96; and see sec. 24 as to the recourse being saved.

In a popular sense these arrears certainly never were his, nor ought he to pay them. We think the words must be very clear which will render him legally responsible.

For many years the legislature have held all property actually on the land of residents or non-residents liable for the taxes, and the arrears formed a gradually increasing lien, recoverable at any time by distress of goods on the land down to the ultimate sale of the land itself by the sheriff. It may well be doubted if the act of 1863 meant to create any new individual liability or intended to go beyond the creation of a simple machinery for effecting by the local assessors and collectors, what could previously, with far greater difficulty and much less accuracy, be done by the county treasurer through the sheriff. (See sec. 122).

It would seem the more reasonable construction that these arrears, whether kept separate from or included in the plaintiff's taxes for the current year, did not thereby become a charge against his property to be found any where within the County of York at any distance from the lands chargeable, and never having been on the same.

It may be just that any person bringing property on a lot in arrears for taxes for the purpose of cultivating or occupying the same, should incur the responsibility of making such property liable for all arrears of taxes. He either knows or ought to know the law which has been in force for years. The land cannot be cleared of the burden, and everything upon it is equally bound. It is far different, however, with chattel property which belongs to the temporary occupant, and which may never have been within miles of the land or used for any purpose connected therewith.

We think we can allow full effect to the provisions of the act of 1863 without doing the very serious injustice which the defendant's view of the law would render necessary.

McLean, C. J., in *Holcomb* v. *Shaw* 22 U. C. Q.B. 100, expresses an opinion that taxes due by former occupants are not taxes which a future occupant "ought to pay" under sec. 96; but that case was decided before the act of 1863.

Judgment for plaintiff on demurrer.

HENDERSON v. GESNER ET AL.

Promissory note—Stamps.

The plaintiff in September, 1865, sued the maker of a promissory note, due in January, 1865, payable to H. or bearer, and by H. endorsed to the plaintiff. Defendant pleaded that it was not duly stamped when the plaintiff became a party thereto, nor until it fell due; and the jury were directed that it was sufficient if the stamps were put on before action brought.

Held (reversing the judgment of the County Court), a misdirection, for the plaintiff became a party to the note by becoming the holder or endorsee, and was bound to stamp it then.

[Q. B., H. T., 1866.)

Appeal from the County Court of the County of Kent.

The declaration was against Gesner, the maker of a note for $170 86, dated 24th October, 1864, payable to Henry Henderson, or bearer, three months after date: that Henderson endorsed the note to defendant Stewart, who endorsed it to the plaintiff.

The defendant Stewart, who alone defended, pleaded want of presentment and notice; and, 3. That he endorsed the note without value, to accommodate Gesner, and so endorsed before the issuing or delivery of the same to the plaintiff by Gesner, and the plaintiff became a party to it and accepted it so made and endorsed; but the said note had not at the time it was so made and delivered to the plaintiff, and at the time when the plaintiff became a party thereto and accepted and received the same, the stamps required by law thereto affixed, impressed or placed thereto, to wit, revenue stamps of the denomination of bill or note stamps to the value of six cents, nor were the same affixed thereto in double value as required by law, to wit, twelve cents in such stamps, by the plaintiff when he became the endorser thereof, nor till the note became due.

Issue was taken on these pleas.

The payee's name was the same as the plaintiff's, but no evidence of identity was given, so that it might be assumed that the plaintiff's interest in the note accrued after defendant Stewart's endorsement.

The notary swore that four three cent stamps were put and obliterated on the note by the plaintiff before it became due: that the plaintiff