a word of well known popular meaning. "A bon" is, I presume, its equivalent, and is also a word very well known. In fact, I think, in this country, it is a word used instead of the "I. O U." of known old country significance. Assuming it to bear the same meaning as the common I. O. U., we have to consider its effect in evidence without any explanation of the circumstances under which it is given. By itself I think it sufficiently imports a consideration. The case cited of *Tyke* v. *Cosford* bears on that point, and is supported by *Davies* v. *Wilkinson*, 10 A. & E. 98.

There is no doubt that it is always open to defendant to rebut any inference to be raised by the production of such an instrument; and if in fact no debt be due or account stated, the document goes for nothing. In support of this view may be cited *Lemere* v. *Elliot*, 6 H. & N. 658, where the late Chief Baron says, "An I. O U. professes to be the result of an account stated in respect of a *debt due*, and it is important not to make fiction supply the place of truth and say that an account has been stated in respect of a debt where in reality there was none."

A late case in our Queen's Bench, *Toms* v *Sills*, 29 U. C. 498, is also in point. The evidence shewed there was no debt due. The plaintiff, as attorney for V., had a bill of costs against the defendant, who had been sued by V. He paid part of the bill, and wrote at the foot, "I will pay the above balance in a week." He owed nothing to his opponent's attorney, and on this evidence the Court, in appeal, properly held there could not be a recovery on an account stated. But in the absence of any contradictions or explanations of the circumstances under which it was given, I am of opinion that it is *primâ facie* evidence to go to a jury of an account stated and settled between the parties.

In *Fessenmayer* v. *Adcock*, 16 M. & W. 449, Parke, B., says, "In *Curtis* v. *Rickards*, 1 M. & Gr. 46, the production by the plaintiff of the I. O. U. was held *primâ facie* evidence that an account had been stated by the defendant with him, though no name was mentioned in the instrument, that is of a payee. I agree with that decision."

In *Lubbock* v. *Tribe*, 3 M. & W. 613, Lord Abinger says, "Where there is a promise to pay a sum of money as due from A. B., it is evidence of an account stated, which means this, that the simple promise, if it stand unexplained and uncontradicted, is evidence to go to a jury that the plaintiff claims that sum to be due, and that there are matters of account between the parties."

In *Porter* v. *Cooper*, 1 C. M. & R. 394 Parke, B., says, "If there is an admission of a sum of money being due, for which an action would lie, that will be evidence to go to a jury on the count for an account stated." Alderson, B., to same effect.

It remains to consider the objection as to the want of a stamp. Our Stamp Act gives us no definition of a promissory note, and is much more meagre in this respect than the Imperial Statutes. It merely declares that every promissory note, draft, or bill of exchange, shall require stamps. Sec. 3 does not help us further.

The English authorities seem to hold that an "I. O. U." simply does not require a stamp.

In *Melanotte* v. *Teasdale*, 13 M. & W. 216, Pollock, C B., says: "The doctrine that an I. O. U. simply does not require a stamp, has been so long established, and so many instruments have been drawn on the faith of it, that it must be considered settled law." In that case the addition of the words, "which I borrowed of M." (the deceased), was held to carry the case no further than a mere acknowledgement. There were also the words, "to pay her 5 per cent. till paid." He says these words were mere surplusage, and that the only agreement of which the paper was evidence, is an agreement to pay interest on the £45, which is not necessarily of the value of £20. This is to shew that it did not require an *agreement* stamp.

Byles on Bills (1866), 11: "If there be no words amoun ing to a promise, the instrument is merely evidence of a debt, and may be received as such between the original parties. Such is the common memorandum I. O. U."

Smith v *Smith*, 1 F. & F. 539.—On the authority of the last case cited, Byles, J., held the following not to require a stamp: "This is to certify that I owe £210 to A. B I promise to pay interest at five per cent," the promise only referring to the interest See also *Taylor* v. *Steele*, 16 M. & W. 665; *Bayley* on Bills (1849), and cases there collected, page 3.

In the case before us it is brought down to the point whether the introduction of the words "on demand" makes the instrument a note. I have examined a great many cases, and can find none exactly similar. If the words were "*to be paid* on demand," according to my brother Wilson's view, in *Tyke* v. *Cosford*, it becomes a promissory note. He adds, "the words 'to be paid' have some meaning, and that is that they create an express promise." He cites *Brooks* v. *Elkins*, 2 M. & W 74; *Waithman* v. *Elsee*, 1 C. & K. 35. The first of these cases was, "I. O. U. £20, to be paid on 22nd inst" The Court held it to be either a promissory note or an agreement for payment of money, and in either case it requires a stamp. The latter case is a *Nisi Prius* decision of Rolfe, B., and is to same effect. Are we then, in the absence of direct authority, to carry the decisions further, and hold the words "on demand" to import a promise to pay? The addition of the words, in the case before us, is mere surplusage, and has no effect on the operation of the instrument. An action would lie five minutes after its execution, without the aid of the words. A note specifying no time of payment is payable on demand.

In *Sibree* v. *Trip*, 15 M. & W. 23, the following was held not to be a note:—"Bristol, August 14, 1843. Mem.—Mr. S. has this day deposited with me £500, on the sale of £10,300 £3 per cent. Spanish, to be returned on demand." Signed by defendant. Pollock, C. B., says, "It is difficult to lay down a rule which shall be applicable to all cases, but it seems to me that a promissory note, whether referred to in the Statute of Anne or in the text books, means something which the parties *intend* to be a promissory note. We cannot suppose the Legislature intended to prevent parties from making written contracts relating to the payment of money, other than bills and notes."

In *Taylor* v. *Steele* (1847), 16 M. & W. 667, Parke, B., says: "The more recent cases say