

the true date "unless the contrary be proved," and also enacts that "a bill is not invalid by reason only that it is . . . post-dated." S. 73 defines cheques as bills of exchange "drawn on a banker payable on demand."

That a post-dated cheque is a valid and negotiable instrument has been settled by many decisions of the courts, and it will be sufficient to cite what is believed to be the latest to that effect—*Royal Bank of Scotland v. Tottenham*, a decision of the Court of Appeal (71 L.T. Rep. 168; (1894) 2 Q.B. 715). In that case the plaintiffs on the 8th Aug. received and placed to the account of a customer a cheque dated the 10th Aug. drawn by the defendant. The cheque being dishonoured on presentation, through the defendant having stopped payment of it, the plaintiffs were held to be entitled to sue the defendant, as being holders for value.

With respect to stamp duty, a post-dated cheque is on the footing of an ordinary cheque and not a bill of exchange. Being payable "on demand," the post-dated cheque comes under the heading of the schedule to the Stamp Act, 1891, "Bill of exchange—payable on demand or at sight or on presentation—1d." The fact of the date constituting a direction not to present or pay at once does not prevent the instrument being payable "on demand." This was decided in *Royal Bank of Scotland v. Tottenham* (sup.). See also *Hitchcock v. Edwards* (60 L.T. Rep. 636, Mr. Justice Cave). In every reported case of an action against the drawer of a post-dated cheque the action has almost necessarily been heard some time after the date expressed on the cheque, and the cheque then necessarily appears on its face to be properly stamped, there being nothing to indicate that it was actually drawn and issued before the date appearing on it. Apparently, if an action could be conceived as being brought on a post-dated cheque long before the expressed date, the cheque would have to be stamped as an ordinary bill of exchange in order to be valid and admissible in evidence. However valueless for practical purposes this consideration may be, it certainly follows from the ratio decidendi in *Royal Bank of Scotland v. Tottenham* (sup.), and the decision in that case as to the 1d. stamp duty on post-dated cheques being sufficient is somewhat unsatisfactory from a theoretical and juridical point of view.