

ment: but the words "payable in fourteen days," &c., are certainly words of promise, just as in the two last cases, where the word "payable" was used, but it was held in them not to be applicable to the principal money, but only to the interest. There can be no difference between *payable* and *to be paid*, or *to pay*.

The question then is, whether the words in which the money is made payable, "in Canada bills," prevents the instrument being construed as a promissory note.

In *Stephens v. Berry*, 15 C. P. 548, the bill of exchange was drawn payable in New York "with current funds," but no question was made as to the wording of it. See also *Crawford v. Beard*, 13 C. P. 35.

By the 29-30 Vic. ch. 10, the Governor in Council is authorized to direct the issue of provincial notes payable on demand, which were to be redeemable in specie, and to be a legal tender, excepting at the offices where they were redeemable.

Does this statute constitute these provincial notes lawful money of Canada? The expression *Canada bills*, instead of *Canada notes*, I do not think is of any material consequence. As the declaration is now, by the amendment, the avowment of the note, is payable "in Canada bills, meaning thereby lawful money of Canada," and that avowment is proved if these bills or notes are money.

Between 1797 and 1823, arrests for debt were not permitted in England or Ireland, unless the affidavit negatived tender of the debt in Bank of England notes, but these notes were not at any time made a legal tender. Arrests were not allowed in cases where a tender in bank notes had been made, and actions against the Bank of England were authorized to be stayed, for not paying in money or specie, upon the bank paying in or tendering their notes. But this was the utmost that was done. A creditor could still demand and insist on a specie payment, only he could not arrest if he were offered bank notes: *Grigby v. Oakes*, 2 B. & P. 526.

The 3 & 4 Wm. IV., ch. 98, sec. 6, has since made Bank of England notes a legal tender for all sums above £5.

Here the Provincial notes are made expressly a legal tender, as the Bank of England notes now are in England. But I have not seen any case in which a promissory note has been made payable in Bank of England notes since the 3 & 4 Wm. IV., ch. 98.

In 3 *Kent's Com.*, 11th ed., 92, it is said, "in England negotiable paper must be for the payment of money in specie, and not in bank notes. In this country it has been held that a note payable in bank bills was a good negotiable note within the statute, if confined to a species of paper universally current as cash. But the doctrine of these cases has been met and denied, and I think the weight of argument is against them, and in favour of the English rule." There are many authorities in different States, opposed to each other, referred to in the notes.

In *Byles on Bills*, ed. of 1866, p. 89, it is said, "Bills and notes must be for money in specie. Therefore a promise to pay in three good East India bonds, or in cash, or Bank of England Notes, is not a promissory note:" citing B. N. P. 272; *Bayley on Bills*, 6th ed., p. 11.

In *Story on Promissory Notes*, 3rd ed., sec. 18, it is said, Not a good note if payable in "bank bills or notes, or foreign bills," or "current bank notes."

In *Ex parte Imeson*, 2 Rose 225, a note was payable in cash "or Bank of England notes." The K. B. held it not to be a good note.

On this case, *Bayley on Bills*, 6th ed., p. 11, note 28, says, "for these notes were not within the statute, because a delivery of bank notes, which might be of less value than cash, would satisfy them, and they were not absolutely and at all events for payment of money in specie."

There is a difference between *money* and *currency*. In *Lansdowne v. Lansdowne*, 2 Bligh, O. S., 78, Lord Redesdale said, in 1820, "there is no lawful money of Ireland. It is merely conventional. There is neither gold nor silver coin of legal currency. nothing but copper. \* \* \* There is no such thing as Irish money; it is Irish currency." See also *Kearney v. King*, 2 B. & Al. 301; *Sprowle v. Legge*, 1 B. & C. 16.

The case of *Boardman v. Quayle*, 11 Moore P. C. 223, does not afford any guide, for there the notes, which were in this form, "we promise to pay the bearer on demand one pound British, in bank notes, or bills on London," and which were issued by bankers carrying on business in the Isle of Man, were held to be valid promissory notes within the meaning of the Manx Banking Act.

The money need not be current in the place of payment, or where the bill or note is drawn. It may be current in the money of any country whatever: *Chitty on Bills*, 8th ed., 153.

The holder of a bill drawn in dollars, rupees, roubles, or other foreign money, cannot in England get payment in that coin. He is paid its equivalent in the money current in England. So a bill drawn in sterling money, payable in Vienna, cannot be paid in sterling pounds, but in florins or other current money of the place: *Suse v. Pompe*, 8 C. B. N. S. 538.

It seems to be, therefore, not the specific kind of money mentioned in the bill which has to be paid, but its value or equivalent in money of the country where it is paid.

The note in question is however restricted to redemption in "Canada bills," and such bills I think are not money, though payable on demand, and though a legal tender, and redeemable in specie. The fact that they must be redeemed in specie shows they are not specie, and though possessing many of the qualities and conveniences of money, are nevertheless not money, and certainly not money in specie, though they may be described as currency.

Such a security as this if good as a note would be good also as a foreign bill of exchange, and it might be, and in all probability it would be, that the par value of such bills would not be deemed the same in other countries, where the promissory note or bill of exchange was made payable, as the par of our specie currency. Nor could the foreign holders of a bill of exchange payable in Canada bills conveniently re-draw on default for the principal money, interest, exchange, re-exchange, and other proper charges, by another bill payable in "Canada bills." The re-exchange at any rate should not be paid in Canada bills.

It may be that a person can make a promis-