STAMPS ON BILLS OF EXCHANGE AND PROMISSORY NOTES.

The amendment of the Stamp Act introduced in 1870 was more for the protection of innocent holders who may become possessed of a bill or note. Under this later enactment any subsequent party to the bill, etc., or person paying the same, or any holder without becoming a party thereto may pay double duty by affixing to the instrument the requisite stamps. If the validity of the bill or note is questioned by reason of the proper duty not having been paid or not having been paid by the proper party or at the proper time, and it appears that the holder thereof when he became the holder, had no knowledge that the proper duty had not been paid by the proper party or at the proper time, the instrument will nevertheless be held legal and valid if it appears that the holder paid double duty so soon as he acquired knowledge of the insufficient stamping, or if the holder of the instrument acquiring such knowledge at the trial or inquiry do thereupon forthwith pay double duty, etc. It has been held in one case in the Court of Common Pleas* this statute only refers to subsequent parties, and that the person to whom a bill or note is in the body made payable, called in technical language the payee, is not within its provisions and cannot by paying double duty render the note valid. If the instrument is not sufficiently stamped when it reaches the hands of the payee or any party named in the instrument, the latter cannot recover. In the case of parties, such as the maker, acceptor, or payee, the proper stamps must be affixed *at the time the note is made.* If the instrument is not sufficiently stamped when made, a party thereto cannot avail himself of it unless he can show that at the time it came into his hands it had affixed to it stamps to the amount of the duty *apparently* payable thereon, and that he had no knowledge that they were not applied at the proper time and by the proper party or parties, and that he paid the double or additional duty as soon as he acquired such knowledge. To illustrate our meaning: suppose a note is insufficiently stamped by the maker, and the deficiency is apparent when it reaches the hands of the payee, the note will be void in the hands of the latter. The law requiring that the requisite stamps be affixed at *the time when the note is made*, if not then affixed a penalty is incurred, and the duty is doubled. The case will be the same if a part only of the necessary duty is paid. If, for instance, the note requires a six cent stamp and only a three cent stamp is affixed when made, double the amount by which the stamps are short must be affixed by the subsequent parties, *i. e.*, a six cent. stamp, in addition to the three cent stamp already attached. But suppose that in the latter case only a three cent stamp is affixed and the note came into the hands of the payee thus stamped, that would be a case where it would have "stamps to the amount of the duty apparently payable upon it," and if the payee were ignorant of the fact that the second three cent stamp was not affixed when the note was made he would be protected but not otherwise. The law requires that the *whole* duty be paid when the note is made. But as a payee need not always be present when the note is made, and as the note may have apparently the requisite amount of stamps when it reaches his hands and yet double duty may have been incurred by reason of part of the stamps which should have been affixed when the note was made having been affixed afterwards, the law protects him if ignorant of the fraud.

In the case of a foreign bill drawn in England on a person in Canada and accepted by the latter, though payable to the order of the drawers, it has been held in Woolley v. Hunton, 33 Q. B. U. C., 152, that as the bill is of no effect until acceptance in Canada, when it is so accepted and afterwards delivered to the drawers the subsequent ordering makes them subsequent parties to it, and this though the drawers are named in the bill as payees. In such case as above the acceptors in Canada are the proper persons to affix the stamps.

The law formerly was that the holder of a note could not affix double duty without becoming a party to the note. Now, under the Act of 1870, any holder may, without becoming a party to the note, affix double duty and render it valid, provided that such holder when he became the holder, had no knowledge that the note was not properly stamped in the first instance, and provided that he affixes the requisite stamps as soon as he acquires such knowledge.†

The note or bill must be stamped so as to comply with the law in every particular—an insufficient or defective stamping is as fatal as no stamping at all, for the legislature makes no distinction between notes insufficiently stamped and notes without any stamp. *All* the stamps must be cancelled as required by the statute. If one or more of the stamps is uncancelled the note will be invalid. Thus, where the note required 96 cents in stamps and on its face there only appeared 90 cents in stamps, which, however, were duly cancelled. On removing the upper stamps two others, for three and nine cents respectively, were found uncancelled, being concealed by the upper stamps. The court held the note void though stamps to the amount of ninety cents were cancelled, and with these the uncancelled stamps made up more than the requisite amonnt.*

The rule is the same when the proper stamps are affixed, but are all left uncancelled.†

The stamps must be affixed on the day the note is made, and must be dated on that day, and the date on the stamps must correspond with the date of the instrument. Where therefore a blank promissory note made by F, payable to defendant or order and endorsed by defendant, was sent by F to the agent of the Bank of Montreal at Stratford, where it was payble to retire a previous note. The agent received it on the 27th October, and on the 2nd of November dated it 30th October, 1869, and affixed the proper stamps to it, which he obliterated the same day, but marked the obliteration as of the 30th October, "30, 10, '69," it was held that the note was invalid, for if made on the 27th or 30th October it had not then the stamps, and, if on the 2nd of November, the stamps bore a different date.‡

The Stamp Act does not require an instrument to be stamped which with the stamp would not be valid for some purposes. If, therefore, the note is given for an illegal object and could not be sued on if stamped properly,—it does not require a stamp.§

* Escott v. Escott, 22 C. P., U. C., 305.

† McCalla v. Robinson, 19 C. P. U. C., 113.

* Lowe v. Hall, 20 C. P. U. C., 244.

† 29 Q. B. U. C., 35.

‡ Hoffman v. Ruigher, 29 Q. B. U. C., 531.

§ Taylor v. Goldings, 2 Q. B. U. C., 198.

THE SUGAR TRADE.—Of the importance of the trade few have any conception, nor is it generally known that though still burdened with a heavy duty, it is estimated that to every 100 lbs. of foreign wheat imported into this country we import 40 lbs. of sugar, and that to every 100 lbs. of foreign fresh meat we import 600 lbs. of sugar. It is indeed estimated that 1 lb. of Sugar is already used in this country to every 8 lbs. of home-grown and foreign wheat, and to 1½ lbs. of home and foreign fresh meat. In the twelve months of the present financial year it is not improbable, if the present low prices last, that every man, woman and child in the Kingdom will have consumed on the average 55 lbs. per head of raw and refined sugar and molasses, or 800,000 tons in all, and in any case the consumption will exceed 50 lbs. per head. The increase in the deliveries of sugar and molasses in the six months since the reduction of the duties last spring, up to the end of October, amounted to over 82,000 tons over the corresponding part of 1872, or at the rate of 164,000 tons per year; but as the deliveries had previously fallen off in anticipation of the reduction, the real rise in the twelve months of the new rate will in all probability not exceed 100,000 tons. In order that one single ton of this vast quantity shall reach this country, it is necessary to till half an acre of ground, to plant and weed the canes, to cut them when ripe, to crush them, to clarify and evaporate the juice, to pack the concentrated juice into the hogshead, to take it to the ship, to bring it to England, to unship it, to sample and sell the sugar it contains, to send it by rail to the retail grocer who has to weigh it in detail and to sell it in two thousand two hundred and forty separate operations. What occupation for labor is thus represented! To take one item alone, the trade must already employ ships and sailors by tens of thousands, and all those that built the ships and fitted them; and yet if there were no duty, we might easily consume one and a half million tons of sugar a year, or double what we now use. Such a supposition is not extravagant by any means, for in the fifteen years between 1844 and 1858 our consumption of sugar doubled, and the fifteen years since have shown a further increase of 60 per cent. But even with this rapid augmentation, it will be seen that the limits of our consumption cannot nearly have been reached, when it is remembered that though sugar is a dear article in the bush, the ration allowance of the Australian shepherd is 2 lbs. of sugar per week, or 104 lbs. a year. At this rate, with a population of 32,500,000, we should, as we have said, use 1,500,000 tons of sugar a year. Taking the average imports of the three years ended 1871, the sugar consumption of our colony of Victoria appears to be as nearly as possible 100 lbs. per head of the population, so that placing the great wealth of large sections in this country against the rough plenty of a new land, there is nothing extravagant in looking forward to the use of 1,500,000 tons of sugar here, especially as we shall show that there is ample room for a further great reduction in the cost of sugar.—*Produce Markets Review.*

RAILWAY MORTGAGES.—The powers contained in railway bonds and mortgages form a subject of special interest amongst the investing classes in the United States at the present juncture. When so many railways are making default, bondholders begin to enquire what means are available for the enforcement of their rights. It appears that there is a great diversity in the terms, and therefore in the powers conferred by these bonds. They are classified by the *Financial Chronicle* under three divisions: First, those in which the bondholder has no power to recover his money; secondly, those in which he has such power on certain conditions; and thirdly those in which his rights are plainly stated, and the authority given by which they may be enforced. For instance the bondholders of the Northern Pacific cannot foreclose except by request of 50 per cent. of the whole intended issue $100,000,000 but with the comparatively small amount sold this clause is of no avail. The Canada Southern bondholders cannot sell, but may take possession in case of default, and work the property until it is capable of earning the interest due them when they may be compelled to restore possession to the party who should have paid the interest promptly. The third class imposes no limitations, but requires the trustees to act at once on default being made.