hereinbefore in the case of other municipalities imposed on the treasurer and the sheriff.

Sec. 115 requires the treasurer of every county to keep books, in which he shall enter all the lands on which it appears from the clerk's return and the collector's rolls there are any taxes unpaid, and the amounts so due; and on the 1st of March in each year, he shall complete and balance his books by entering against every parcel of land *the arrears* (if any) *at the last settlement*, and *the taxes* of the preceding year which remain unpaid, and he shall ascertain and enter therein the total amount *of arrears* (if any) chargeable upon the lands at that date.

Sec. 121.—If at the balance to be made on the 1st of May in every year, it appears that there is any *arrear of tax* due upon any parcel of lane, the treasurer shall add to the *whole amount then due* 10 per cent. thereon.

It is upon these sections that the question is raised for our decsion upon facts which may be condensed into the statement following:

City taxes were due on lands in Hamilton, on the 1st of May, 1860, for the year 1859. The chamberlain charged the taxes against these lands, and added 10 per cent. to the charge. The sum of these two items formed the amount due on the 1st of May, 1860.

On the 1st May, 1861, the chamberlain again completed and balanced his books as regarded these lands by charging, 1st. the amount appearing due thereon, by the preceding account; 2nd, the taxes due for the year 1860; 3rd, 10 per cent. on these two amounts as forming the whole amount then due. The sum of these three items formed the amount due on the 1st May, 1861.

On the 1st May, 1862, the chamberlain charged the lands with the amount so due, adding the taxes for 1861, together with 10 per cent. on the sum of these two items.

The question is, if the 10 per cent. should be charged on the gross amount of arrears appearing due at each annual settlement, or only on the amount of taxes due for the several years: in other words, whether the amount on which the 10 per cent. is to be calculated on the 1st of May, 1862, is to include the preceding addition of 10 per cent. made on the 1st of May, 1860 and 1861, respectively.

I think the Legislature have used language very clearly indicated an intention that 10 per cent. should be added every year, calculated on the whole amount which is in arrear and due upon the lands at the time the charge is made. In the present case the lands were liable to satisfy a given sum on the 1st May, 1862, which sum included taxes for preceding years, and 10 per cent. added thereto at the preceding 1st of May. To that sum which constituted the whole amount due on the lands, the statute, as I read it, directs that 10 per cent should be added.

I am therefore of opinion judgment of *nolle prosequi* should be entered, according to the agreement of the parties.

Per cur.—Rule accordingly.

GRIFFIN v. JUDSON.

Promissory note—Dated and payable in Ogdensburg—Protest by a foreign notary—How far protest evidence—Interest—Currency of dollars and cents—Proof of value.

In an action on a promissory note, dated and made payable at Ogdensburg, in the State of New York;

Held, that the production of a protest of a notary of that State was no evidence of the facts therein stated, our statute, under which a protest is made *primâ facie* evidence of those facts, only applying to protests made by notaries of Upper and Lower Canada.

2nd That it was not necessary, in such an action, to prove the value of dollars and cents in the States, we having a corresponding currency, and no par value for the American currency being fixed by law.

3rd. That interest at the rate allowed by our law was chargeable upon such a note.

[T. T., 26 Vic.]

The defendant was sued as endorser of a note, dated at Ogdensburg, in the State of New York, and made payable at a bank there. The declaration contained the usual averments of presentment, dishonor, and notice to defendant. The defendant denied presentment and notice by his pleas.

To prove these two facts, the plaintiff, at the trial, put in the note and an instrument under the hand and seal of a notary, as follows:

"*Advance Office*, Ogdensburg, N.Y.

"United States of America, } S. S.
"State of New York. }

"On the twelfth day of August, in the year of our Lord one thousand eight hundred and sixty-one, at the request of the Judson Bank, I, John D. Judson, notary public, duly admitted and sworn, dwelling in the village of Ogdensburg, county of St. Lawrence, and State of New York, did present the original note for $207 22 and interest, hereunto annexed, to the teller of the said bank, and of him did then and there demand payment thereof, which was refused.

"Whereupon I, the said notary, at the request aforesaid, did protest, and by these presents do publicly and solemnly protest, as well against the maker and endorser of the said note, as against all others it doth or may concern, for exchange, re-exchange, and all costs, damages and interest already incurred, and to be hereafter incurred, by reason of the non-payment of the said note.

"And I further certify and declare, that on the same day and year above mentioned, I served notice of the foregoing presentment, demand, refusal and non-payment of said note upon the endorsers, whose names are written below, by depositing said notices, partly written and partly printed, in the post-office in the village of Ogdensburg, and pre-paid the postage thereon, which notices were directed to the said endorsers, parties to the said note, at the places written opposite to their respective names.

"To P. S. Glassford, Ottawa City, C.W.
"To Edward Griffin, Ottawa City, C.W.

"In witness whereof, I have hereunto subscribed my name and affixed my seal of office, the day and date above mentioned.

(Signed) "J. D. JUDSON,
[L.S.] "*Notary Public.*"

The note itself was drawn for the amount of $207 22, with interest.

For the defence it was objected, 1st, that the document purporting to be a foreign protest, was not legal evidence of the notice of dishonor; 2nd, that the plaintiff should have proved the value of dollars and cents, which, in a note dated in the United States, must be taken to be a foreign currency; 3rd, that interest was not recoverable for want of proof of the rate of interest in the foreign country.

A rule nisi having been obtained in the court below was afterwards discharged.

C. S. Patterson, for the appellant, cited Con. Stat. U.C. cap. 42; Story's Conflict of Law, s. 272, A.; *Bonar* v. *Mitchell*, 5 Ex. 415. *R. A. Harrison*, contra, referred to *Ewing* v. *Cameron*, 6 O. S. 541; 7 Vic. cap. 4, sec. 2; 13 & 14 Vic. cap. 23, sec. 6; *Smith* v. *Hall*, 5 U. C. Q. B. 315; *Codd* v. *Lewis*, 8 U. C. Q. B. 242; Con. Stat. U. C. cap. 42, sec. 21.

DRAPER, C. J.—I felt some doubt on the first point, as to whether the Con. Stats. of Canada, cap. 57, sec. 6, was not confined to protests of notaries public in Upper and Lower Canada. On further consideration, I do not think the general language should have the same full effect given to it—"*All protests* of bills of exchange and promissory notes shall be received in all courts as *primâ facie* evidence of the allegations and facts therein contained"—as if it stood alone.

The 7th section enacts, that "any note, memorandum, or certificate, at any time made by one or more notaries public, either in Upper or in Lower Canada, in his own handwriting, or signed by him at the foot of or *embodied in any* protest, or in a regular register of official acts kept by him, shall be presumptive evidence in Upper Canada of the fact of any notice of non-acceptance or non-payment of any promissory note or bill of exchange having been sent or delivered at the time and in the manner stated in such notice, certificate or memorandum."

This immediately follows, and, as I think, qualifies and explains sec. 6. If that section were, by its own force, to make every protest evidence of every fact set out in it, then so much at least of section 7 as makes a note, memorandum or certificate, "embodied in any protest," evidence of the notice of non-acceptance or non-payment having been sent or delivered, as stated in such note, &c., would be superfluous