From MEREDITH, J.] [June 30.

MCMILLAN *v.* MCMILLAN.

Mortgage—Priorities—Assignment—Payments by stranger.

This was an appeal by the plaintiff from the judgment of MEREDITH, J., reported 23 O.R. 351, and was argued before HAGARTY, C.J.O., BURTON, OSLER, and MACLENNAN, JJ.A., on the 22nd and 23rd of May, 1894.

June 30th, 1894. The appeal was dismissed with costs, the majority of the court holding that, on the evidence, the payments in question had not been made with any intention of taking over the mortgage.

MACLENNAN, J.A., held that the payments had been made with this intention, that the plaintiff had sufficient interest in the mortgage, owing to the possibility of his own lands being resorted to to make good any deficiency, to entitle him to make the payments, and that he had an equitable lien for the amounts paid, but that this unregistered equitable lien was cut out by the respondent's registered mortgage.

Hoyles, Q.C., for the appellant.

W. H. Blake for the respondent.

From C.P. Div.] [June 30.

SAMUEL ET AL. *v.* FAIRGRIEVE ET AL.

Bills of exchange and promissory notes—Patent of invention—Transfer of patent—"Given for patent right"—53 Vict., c. 33, s. 30, s-s. 4 (D.)—Consideration—Composition agreement.

Subsection 4 of section 30 of the Bills of Exchange Act, 1890, 53 Vict., c. 33 (D.), requiring notes, the consideration of which consists in whole or in part of the purchase money of a patent right, to have thereon the words "given for a patent right," does not apply to notes given by a firm to cover the individual indebtedness of one of the partners, part of the consideration to the unindebted partner for joining in the notes being, to the knowledge of the creditor, the transfer to him by the indebted partner of an interest in a patent.

An advance of money by a creditor to a debtor whose debt has been released by a composition agreement is sufficient consideration for notes given by that debtor and his partner to the creditor for part of the released debt.

Judgment of the Common Pleas Divison, 24 O.R. 486, reversed.

Watson, Q.C., and *J. Parkes* for the appellants.

Moss, Q.C., and *C. W. Thompson* for the respondents.

From ARMOUR, C.J.] [June 30.

TOWN OF TRENTON *v.* DYER.

Assessment and taxes—Roll—Certificate of clerk—Collector—Bond—R.S.O., c. 193, s. 120.

The provision contained in s. 120 of the Assessment Act, R.S.O., c. 193, requiring the clerk to deliver to the collector the roll, "certified under his hand," though possibly directory as to time, is imperative as to the certificate,