

CORRESPONDENCE.

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Chattel Mortgages.

To the Editor of the CANADA LAW JOURNAL.

SIR,—If M. J. G. will examine again the case of *Gilleland v. Wadsworth*, 1 App. Rep. 82, I think he will find that he has, on the point he alludes to, drawn an erroneous conclusion.

The defendant was affected with notice of the assignment of the mortgage in question, because he purchased, or rather acquired, the lands by exchange, after the registration of the assignment—See *Trust and Loan Co. v. Shaw*, 16 Gr. 448, and Mr. Justice Moss's reference to it at page 91 of the report of *Gilleland v. Wadsworth*. Had the mortgagee paid Currie in ignorance of the assignment, though it had been duly executed and registered, he would have been protected. At the same page Mr Justice Moss says:—"The registration of the assignment would not be notice to Brown, because a mortgagor paying off his mortgage does not come within the class of persons to whom registration constitutes notice."

I still think that a mortgagor of chattels can pay or satisfy the mortgage to the mortgagee, even after its assignment and registration, if he does so in good faith and without actual notice of the assignment.

A purchaser would, of course, stand upon a different footing.

Yours, &c.,

LEX.

To the Editor of the CANADA LAW JOURNAL.

SIR,—In the LAW JOURNAL for October, under the heading of "Reviews," you have devoted considerable space to a notice of Mr. Barron's work upon Bills of Sale and Chattel Mortgages, and in it you quote from the author's remarks upon sec. 6 of the act; he there states of the words "hereinafter provided," "it is worth while observing them carefully. Mortgages within this section shall be valid and binding when registered as hereinafter provided; and there is nothing in the act subsequent to this section in any way limiting the period within which mortgages under this section are to be filed." He goes on to say "unless mortgages under section six come within the meaning of section one, it is quite clear that the statute has fixed no period of time within which mortgages under this section are to be filed."

He then proceeds to argue that, in his opinion, "there can be but little doubt that they are not so included, because section one was passed 12 Vic. cap. 74, and section six not until 20 Vic."

I do not think Mr. Barron's reasoning is well founded.

The words "every mortgage," in section one, are wide enough to cover a mortgage under section six, and in section one it is required that "within five days from the execution thereof they shall be registered as hereinafter provided." Section five contains similar language as to Bills of Sale. Section six states, "and in case such mortgage is registered as hereinafter provided, the same shall be valid, &c."

By the Act of 20 Vic. cap. 3, the Acts of 12 and 14 Vic. were repealed, and their provisions embraced in that act, with the addition, among others, of what is now section 6 of R. S. O. cap. 119.

Section one provides that "every mortgage, &c., intending to operate as a mortgage of goods and chattels, &c."

Section six is confined to particular classes of mortgages only.

The time for registration of all mortgages is fixed by section one.

Section seven provides how or where they may be registered.

I think Mr. Barron has attached too much weight to the words "hereinafter provided." I understand those words to mean the manner in which they shall be registered, and to have no reference to time; and I think the Act clearly shows this, because the time for registering is repeated in section five, in the case of Bills of Sale, showing that the Legislature was fully alive to the fact that the words "every mortgage or conveyance intending to operate as a mortgage," in section 1, would not cover the case of an absolute sale under section 5. Further, it is common with lawyers in conveyancing to say "at the time and in the manner hereinafter stated," thereby always understanding that the manner of doing an act does not refer to the time of doing it. The word "as" in the Act is there used in the same sense and has the same meaning as the words "in the manner" would have.

For my part, whilst fully appreciating the merits of Mr. Barron's work as a desideratum, I cannot see that there was ground for his opinion upon section 6.

N. F. PATERSON.