

Oct. 15, 1882.]

NOTES OF CANADIAN CASES.

[Q. B. Div.

Ct of App.]

## MCLEAN V. PINKERTON.

*Chattel Mortgage—Registration—R. S. O. ch. 119, sec.—Sunday last of five days.*

A chattel mortgage was duly executed on the 12th of July, deposited in the post office on the 16th, and received by the clerk of the County Court on the 18th, the 17th having been a Sunday.

*Held*, [affirming the judgment of the County Judge, (Victoria)], that such registration was too late, the Act (R.S.O. ch. 119), requiring the same to be effected within five days from the execution of the instrument, and, therefore, that Sunday counted as one of such five days, so that the registration should have been effected on the 16th.

*Rose, Q.C., and F. Hodgins, for appeal.*  
*Gibbons, contra.*

## STOESER V. SPRINGER.

*Replevin—Fraudulent purchase—Disaffirming sale.*

T. sold a horse, buggy and harness to M., who paid for them by two promissory notes, one his own, and having been informed that M. was worthless, he went and demanded back his goods, at the same time throwing the notes on the table. On the assurance of M., however, that all would be right, T. again took up the notes and went away. Subsequently the plaintiff, without any knowledge of how M. had obtained the goods, traded for them, giving M. \$50 cash, in addition to his own horse and buggy. T. afterwards, on ascertaining that he had been deceived, sued out a writ of replevin and retook the goods.

*Held*, [affirming the judgment of the County Court, Waterloo], that the plaintiff, being a *bona fide* purchaser before any actual disaffirmance of the sale by T., was entitled to retain possession thereof.

*McCarthy, Q.C., for the appeal.*  
*J. K. Kerr, Q.C., contra.*

## GRASS V. AUSTIN.

*Fraudulent preference—Mortgagor and Mortgagee.*

M., the purchaser of land, executed a mortgage thereon for about \$2,500 of the purchase money,

and having allowed the interest to run in arrear till it amounted to \$750, executed a chattel mortgage in favour of his vendors, including grain and hay, as also all the crops and hay sown or to be sown during that year, and subsequently a creditor of M. obtained an execution against him, whereupon the sheriff obtained an order of interpleader. On the trial before the Judge of the County Court (Northumberland and Durham) a verdict was entered for the plaintiffs subject to the opinion of the Judge on the whole case, who subsequently sustained such verdict. On appeal this decision was affirmed, but as there were some articles in the possession of the debtor not covered by the chattel mortgage the Court refused to allow the respondent more than half the costs of such appeal.

*Bethune, Q.C., for the appellant.*  
*J. K. Kerr, Q.C., and Skinner, for respondents.*

## QUEEN'S BENCH DIVISION.

Osler, J.]

[June 5.]

## MILLAR V. HAMELIN AND WIFE.

*Statutes of Limitations—Acknowledgment—Estoppel.*

Hamelin, being seised of land subject to a mortgage to L. dated 14th October, 1863, and to one to M. dated 12th January, 1864, made an assignment to W. on 22nd November, 1866, under the Insolvent Act of 1864. On 28th January, 1868, Hamelin obtained his discharge; on 27th January, 1869, he obtained from M. an assignment of M.'s mortgage; and on 3rd May, 1869, he made a conveyance under the power of sale in the mortgage to F. H. to the use of his wife, his co-defendant. On 12th April, 1869, L. assigned his mortgage to Mulholland, who, on 28th March, 1873, assigned it to W. In 1879 Hamelin, having procured assignments to himself of a number of the claims against his insolvent estate, presented a petition signed by himself to compel W. to wind it up. He alleged that Mulholland held the L. mortgage in trust for the estate, and asked to have the estate realized and distributed among the creditors. A sale was accordingly had on 20th April, 1880, of all the right title and interest of the insolvent in the land, and the advertisement further stated that the purchaser would acquire only such title