Law School—Books for reading.

To the Editors of the Upper Canada Law Journal.

Gentlemen,—I am anxious to know whether it is Williams on Personal or Williams on Real Property that is to be read by students intending to compete for the first year's scholarship. I will feel much obliged to you for an early answer.

I have observed in the July, 1863, number of the *Law Journal*, that it is Williams on *Personal* Property, but as it is stated in subsequent numbers Williams on *Real* Property, I am at a loss which to prepare.

Yours truly,

Neill Malcolm Munro.

Cornwall, 5th August, 1864.

[It is Williams on *Personal* Property, as explained in 9 U. C. L. J. p. 172.—Eds. L. J.]

Registration of decrees of foreclosure in county registry offices—How effected.

To the Editors of the Upper Canada Law Journal.

Gentlemen,—Under Con. Stat. U. C. cap. 89 sec. 40, every *decree* affecting any title or interest in land, may be registered in the county registry office where the land is situate, on a certificate given by the registrar or clerk of the court, stating the substance and effect of such decree, and the lands affected thereby.

Now, I think the meaning of this is clear, and the duty of the county registrar also, but a difference of opinion exists as to the same, and as your periodical extends through Canada, it might be as well to have the matter settled.

In my opinion, the registrar of the county, on having the decree brought to him, with the certificate named, and comparing them to see whether the latter does actually state the *substance and effect* of such *decree*, pursuant to the clause in the act recited, then should register the decree, and place thereon a certificate that it is done, to the same effect as is put on a deed when registered—the certificate of the Chancery registrar, stating the substance of the decree, answering, I consider, the place of a memorial to a deed.

The registrar—or rather his deputy—says he will not endorse any certificate *on the decree*, to the effect that the same has been registered, even if *paid* 2*s.* 6*d.* extra therefor, inasmuch that he *does not know that it is actually the decree*, but that he would make a copy of the certificate of the registrar of the court, and certify that it is a copy. Of course for this he would charge an extra fee.

Now, you will see how absurd it seems that such a plan should be pursued, instead of the manifestly simple one of endorsing on the decree a simple certificate of registration similar to that on a deed when registered. The language of the act is, every *decree* may be registered, not that every certificate given by the registrar of the court. Hence, I take it, that the decree must be produced and compared by the county registrar, and then, when he finds that it complies with the requirements of the clause referred to, he *registers the decree*, as he does a deed, by copying out the instrument which remains in his office. It looks very far fetched to say that the decree itself need not be produced to the registrar. I consider that he is bound to give back *some proof* that he has registered the decree, and that it is proper it should be done by a certificate of his endorsed on the same, so that the decree may remain as evidence of title in the hands of the party entitled to it.

Section 74 clause 6 fixes the fee for doing what the previous section authorises to be done.

Your views would be of service, and might cause a fairer course to be adopted in the matter. I think that the spirit of all laws should be carried out.

And, bye the bye, what remedy would a person have against the registrar if he neglected to record the certificate? He has no acknowledgement that any such was left with him, while endorsed on a deed or mortgage is an acknowledgment of the registration, and it might be impossible to prove it, and incalculable damage and injury and trouble might result.

Yours obediently,

Berlin, August 17, 1864. A Law Student.

[Section 40 of the Registry Act is not as explicit as it should be; and we have great difficulty in bringing ourselves to the conclusion that it intends the decree to be produced and copied in the registry books *verbatim*. It appears rather to us that what is intended to be copied is "the substance and effect of the decree and the lands affected thereby," as apparent from the certificate. This, when done for the purposes of the act, is to be taken as in law the registration of the decree, in the same manner that the transcribing of a memorial is in law the *enregistration* of the deed. We see nothing in the act to make it the duty of anybody to produce the original decree to the registrar for the purpose of having endorsed thereon a certificate or for any other purpose. It is true that section 30 of the act reads that "the registrar, &c., shall, upon the production to him of the instrument, or will, or probate thereof *and* of the memorial and affidavit, or declaration of execution, enter the memorial in the register book, and shall file the memorial and affidavit or declaration of execution, and immediately after such entry shall endorse a certificate on every *such* instrument, or will, or probate thereof, and shall therein mention the certain day, hour and time on which *such* memorial is entered and registered, &c.:" but we do not think a decree of foreclosure is an "instrument" within this enactment. In practice these certificates sometimes recite the decree in full, but more generally give the substance and effect of it, or of a part of it, as may be desired by the party procuring it. The certificate is under the seal of the court as well as the decree, and is complete in itself.—Eds. L. J.]

Issue of debentures—Debt.

To the Editors of the Upper Canada Law Journal.

Gentlemen,—I would trouble you to answer the following: Can a municipal (township) council issue a debenture or debentures in payment of a debt (for a roadway for instance) within its *ordinary* expenditure, supposing, at the *same time*,