

CORRESPONDENCE.

the duty of the assignee to reconvey the estate, &c., &c." The principal question then, if not the only one, is—when is the deed *executed as aforesaid*? The word "execute" has a meaning in law which, it appears to me, settles the matter. Worcester, following Burrill, says, "a deed is *executed* when it is signed, sealed and *delivered*." The signing and sealing are of course contemporaneous and previous to the delivery. In this respect a deed of composition and discharge does not differ from any other deed. Assuming then that the deed is properly and sufficiently signed and sealed, when is it delivered? or in other words, when is the execution completed? Bouvier, I think it is, says, "In law, a paper is said to be *filed* when it is *delivered* to the proper officer, and received by him to be kept on file." It is perfectly clear that there is no delivery previous to this filing, for by reference to the first lines of section 53, it appears that the deed is to be filed in the office of the Court by the Insolvent, showing that he, at this point, is in possession of it. It is also perfectly clear that there is no delivery after this filing, for it is received by him (the officer of the Court) to be *kept on file*. It remains on file forever, and, consequently it can never be delivered any more, or any further, unless the Court is delivered with it.

Again—the deed is to be executed as *aforesaid*—the word "aforesaid" has, in this connection, a significance sufficient in itself to remove every doubt as to the meaning of the word "executed." Mark you, the words "executed as aforesaid," occur in section 60—sections 54 to 59 inclusive refer to the confirmation of the discharge and there is not one word in the whole Act referring to such confirmation until you reach section 53, which directs the notice to be given of the intention to apply to the Court Form J, which is a part of and embodied in section 53, reads as follows:—"The undersigned (that is to say, the Insolvent) has filed in the office of this Court, a deed of composition and discharge, *executed* by his creditors." The Insolvent is directed to say that the deed is *executed* as soon as it is filed, as provided by, and mentioned in, section 53,

and there is not another word about it being executed; in fact, the word "executed" does not again occur until you find it in section 60, where the deed is now spoken of as "executed as aforesaid."

It seems to me, therefore, that I am obliged to draw the following conclusion from the premises which I have laid down.

The assignee shall reconvey, so soon as the deed is *executed as aforesaid*, that is to say, so soon as the deed is *signed, sealed and delivered as aforesaid*.

The deed is *signed, sealed and delivered as aforesaid*, when it is *signed, sealed and filed in the office of the Court*, as provided by section 53.

Therefore (taking the words of the Act in full) it shall be the duty of the assignee to *reconvey* the estate so soon as the deed shall have been *signed, sealed and filed in the office of the Court*, that is to say, so soon as the first five lines of section 53 shall have been complied with.

I am obliged to add another observation, owing to the fact that the purport of the last two lines of section 66 have been sadly misrepresented. In order to avoid this misrepresentation it is only necessary to distinguish between the words "deed" and "discharge." The deed hereinbefore referred to has two provisions—The composition part of the deed is the promise by the Insolvent to pay his creditors a certain proportion of his debts. The discharge part is the agreement by the creditors to release the Insolvent. The two parts taken together, namely: the composition and the discharge, with possibly other obligations, comprise what is termed the *deed*. If you will carefully peruse the first dozen lines of section 59, you cannot fail to observe the distinction between the words "deed" and "composition" and "discharge," and will have no difficulty in agreeing with me that while a *discharge* may have no effect as provided in section 66, the *deed* in every other respect, and in all its other functions and requirements, may be and remain in full force.

If section 66 had said that a *deed* should have no effect until it was confirmed, I would be obliged to admit that sections 60 and 66 were contradictory, but as section 60