SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

NOTES OF NEW DECISIONS AND LEADING CASES.

NOTARY—SEAL.—It is not necessary that the notary who protests a note should use an official seal, or subscribe himself in writing a notary public: any seal which he declares in the protest to be his official seal is sufficient, and the placing his signature before the printed words "notary public" amounts to an adoption of them.—*The Commercial Bank of Canada* v. *Brega*, 17 U. C. C. P. 473.

DEVISE TO SELL FOR PAYMENT OF DEBTS—DELEGATION OF POWER.—A testator devised all his real and personal estate to his executors in fee, in trust for sale to pay debts:

Held, on the authority of *Stronghill* v. *Ansley*, 16 Jur. 676, that a *bona fide* purchaser for value was not bound to enquire whether there were debts which authorized the executors to sell.

By a subsequent clause in his will the testator directed that all his real estate not specifically devised or required to pay debts should be sold by his executors as they thought best, and the moneys arising from the sale and from other sources should, after payment of debts, be invested by them: *Quære*, whether a mere power was created by this clause of the will, and if so, whether it was well executed by a delegated power; or whether, on a fair construction of the whole will, and to give effect to the general purpose which the testator had in view, a similar estate might not be deemed to be continued in the executors for the objects of the second as well as for those of the first clause.—*Burke* v. *Battle*, 17 U. C. C. P. 478.

SALE OF GOODS—WEIGHT NOT ASCERTAINED—DELIVERY AT FUTURE TIME—INSOLVENCY OF VENDOR—CHATTEL MORTGAGE TO BANK.—On the 13th of September, 1866, S. agreed to deliver on account of K. at a railway station, when wanted, 600 boxes factory cheese at a certain rate per pound, and to keep the same insured until wanted. The weight of cheese had not at this time been ascertained; in fact, the whole quantity had not been manufactured. Subsequently two warehouse receipts, dated respectively 21st September and 9th October, were given to K., the one for 330 and the other for 280 boxes, signed by S., and specifying the weight of the cheese. On the 22nd of October K. executed a mortgage to plaintiffs on 400 boxes of cheese purchased by him from S. on or about the 13th of September, and then in the curing house of S., to secure the payment of moneys advanced to him by plaintiffs upon the security of part of the cheese. This mortgage was not filed. S. became insolvent on the 19th of October following, and K. became aware of it on the following day. The plaintiffs replevied 341 boxes of cheese.

Quære, whether the property in the cheese passed to K. on the 13th of September; but if it did not, because the weight had not been then ascertained, that objection was removed on the 21st of September, as the receipts of that date specified the weight. But, *Held*, that the fact that the cheese was not to be delivered until a future time, when K. wanted it, and that S. was to keep it insured in the meantime, did not prevent the property passing; for it is the intention of the parties to the contract which is to govern in such cases.

Held, also, that even if the property did not pass before the 21st of September, in consequence of the weight not having been before then ascertained, the subsequent insolvency of S. did not affect K.'s right respecting it; for that the only portion of the Insolvency Act of 1864 applicable to the case (sec. 8, sub-sec. 2) did not in fact apply, as there was no evidence here of obstructing or injuring creditors, but the contrary, the property having been sold at its full value; but even if the case were within the operation of that clause of the act, the contract would be voidable only, under the order of a competent tribunal, and no such order had yet been made, and would only be made upon such protective terms to the person from actual loss or liability as the court might direct.

Held, also, that the mortgage to the plaintiffs was valid, having been taken "by way of additional security for a debt contracted to the Bank in the course of its business," and therefore within C. S. C. ch. 54, sec. 4; that it could not be impeached by any one for want of filing but an opposing creditor of K., and that as S. could not impeach it, neither could the defendant, his assignee in insolvency.—*The Bank of Montreal* v. *McWhirter*, 17 U. C. C. P. 506.

LOCATEE OF CROWN — EXECUTION AGAINST LANDS.—This court will, at the instance of a judgment creditor of a locatee of the Crown, with execution against lands in the hands of the Sheriff, direct the interest of the locatee to be sold, and order him to join in the necessary conveyance to enable the purchaser under the decree to apply to the Crown Lands Department for a patent of the land as vendee or assignee of the locatee.—*Yale* v. *Tollerton*, 13 U. C. Chan. Rep. 302.