

A mortgage of a growing crop or a crop to be grown does not come within the provisions of the Bills of Sales Act, R.S.M., c. 10; *Grass v. Austin*, 7 A.R. 511.

At most the plaintiff got, under his mortgage, an equitable interest in the crops to be sown; but before he could take possession of the crop, before even it came into existence, there was the writ of execution in the sheriff's hands.

A writ of execution against goods and chattels, at and from the time of its delivery to the sheriff, binds all the goods and chattels, or any interest in all the goods and chattels of the judgment debtor within the bailiwick of the sheriff. It binds, not merely the goods and chattels which the debtor has at the time it is placed in the sheriff's hands, but all the goods and chattels he acquires and has while the writ is current and unsatisfied. When the crop here came into existence, the property in it, the legal title to it, was in the debtor. The mortgage passed no property in the crop, or, at most, a right to it in equity. It gave the plaintiff an equitable right to enter and take the crop, should it come into existence. But the moment it came into existence, the property in it and the legal title to it became bound by the execution. The property must go to the mortgagee, subject to the execution: R.S.M., c. 53, s. 20. The mortgage was not executed until seven months after the sheriff received the writ.

The following cases were referred to: *Clements v. Matthews*, 11 Q.B.D. 808; *Hallas v. Robinson*, 33 W.R. 426; *Congreve v. Evetts*, 10 Ex. 298; *Hobroyd v. Marshall*, 10 H.L.C. 96; *Leatham v. Amor*, 38 L.T.N.S. 785; *Lazarus v. Andrade*, 5 C.P.D. 318.

Appeal allowed with costs.

James for plaintiff.

Howell, Q.C., and *D. A. Macdonald* for defendants.

EXCHEQUER COURT OF CANADA.

GENERAL ORDER.

In pursuance of the provisions contained in the 56th section of The Exchequer Court Act (50-51 Vict., c. 16, and 52 Vict., c. 38), it is ordered that the following rules in respect to the matters hereinafter mentioned shall be in force in the Exchequer Court of Canada:

(1) Any consent in writing signed by the parties, or their attorneys, may, by permission of the Registrar, be filed, and shall thereupon become an order of Court.

(2) Whenever a claim is referred to the Court by the head of any Department of the Government of Canada, a consent in writing, signed by the parties or their attorneys, that such claim shall be heard without pleadings, may be filed with the Registrar, and shall thereupon become an order of Court.

(3) The Court may, on the application of any party, order that any such claim shall be heard without pleadings.

(4) Every such claim shall be ripe for hearing as soon as such order is taken out.

(5) Rule III. of the Exchequer Court of Canada is hereby repealed, and the following substituted therefor: