

increase thereof from time to time until the moneys hereby secured are fully paid." No locality was stated where the cattle were situate. The goods claimed consisted of one bull and seventeen steers. According to the evidence the animals claimed were all branded as above, and they were all the increase from cows so branded, and they were all born and branded during the currency of the mortgage. The time for payment was three years after the date of the mortgage. A power was given to the mortgagor to sell bulls and steers at any time during the three years.

*Held*, 1. That the description by brand was sufficient without any locality being given, particularly as the cattle were what are known as range cattle, roaming over a large extent of unenclosed country: *Mason v. McDonald*, 25 U.C.C.P. 439; *Field v. Hart*, 22 Ont. Ap. 449.

2. That the cattle claimed were the increase of the cattle mortgaged, the mortgagor having the legal and the mortgagee the equitable interest therein, and although a bona fide purchaser for value from the mortgagor could have held these cattle free from the mortgage, an execution creditor was not in the same position and he could only take the legal interest charged with the mortgage. See *Holroyd v. Marshall*, 10 H. L. C. 191; *Eyre v. Macdonald*, 9 H. L. C. 618; *McAllister v. Forsyth*, 12 S. C. 1; *Jellet v. Wilkie*, 26 S. C. 288; *Coyne v. Lee*, 14 Ont. Ap. 512; *Canada Permanent Co v. Todd*, 22 Ont. Ap. 515.

3. That the power given to the mortgagor to sell bulls and steers, did not render the mortgage void, nor did this raise any presumption of fraud, as it was no more than the implied power to sell in the ordinary course of business, and there was no evidence of any fraudulent intention established: *McAllister v. Forsyth*, supra; *National Bank v. Hampson*, 49 L. J. Q. B. 480; *Walker v. Clay*, 49 L. J. C. P. 560.

4. That the fact that the time for payment extended beyond the time within which a renewal should be filed under the N.W.T. Bills of Sale Ordinance, did not render the mortgage void: *O'Neill v. Small*, 15 C. L. J. 114, not followed.

*Muir and Jephson*, for plaintiff. *Lougheed and Bennett* for defendant.

Scott, J.]

IN RE TAYLOR.

[Jan. 26.

*Dominion Land Act, R.S.C.C. 54, ss. 42, 59—Patent issued same day as a conveyance made—Certificate of ownership.*

Land was conveyed to one Taylor under the Dominion Lands Act, R.S.C., c. 55, s. 42. The patent for this land was issued to the assignor as of the same date as the assignments, which, therefore, could not be registered in the Department of the Interior, as provided by s. 59. Application was made to the registrar of the South Alberta (N.W.T.) Land Registration District to issue certificate of ownership to assignee by virtue of the assignment made under s. 42 of the above Act. The registrar refused, and a reference was made to a Judge of the Supreme Court.

*Held*, that the transferor evidently intended to transfer all his interest and that certificate to transferee should issue.

*C. E. D. Wood* (Macleod), for applicant.