

case the debtor had power to charge said lands, and had by writing under his hand agreed to charge the same with the amount of such judgment debt and interest. And all such judgments shall be valid and effectual according to the priority of registering (sec. 2).

After any grant from the Crown, every deed, &c., executed after the 1st January 1851, whereby lands shall be affected in law or equity, shall be adjudged fraudulent and void against a subsequent purchaser or mortgagee for valuable consideration, and against a subsequent judgment creditor, or creditor under a decree or order, who shall have registered his judgment, decree or order, unless such deed be registered before the deed, mortgage or judgment under which such subsequent purchaser, mortgagee or judgment or decretal creditor claims.

Every deed executed, and judgment recovered, since the 1st January 1851, when registered, shall be deemed effectual both in law and equity according to the priority of the time of registering such memorial or certificate (sec. 4).

And the registry of any deed, conveyance, will or judgment, under 9 Vic. cap. 34, and 13 & 14 Vic. cap. 63, affecting lands and tenements, shall in equity constitute notice of such to all persons claiming any interest in such lands and tenements after such registry (sec. 7). See *Moffatt v. March* (3 Gr. Ch. 623).

6.—18 Vic. cap. 127.—No judgment, decree or order shall create a lien or charge upon any lands, or upon any interest in lands liable to seizure and sale on an execution against lands, until such judgment, decree or order has been registered in the Registry office of the county in which such lands are situate.

7.—20 Vic. cap. 57, sec. 19.—Every judgment, decree or order registered against lands, shall, in three years after such registration, cease to be a lien or charge on said lands, unless re-registered.

Now, in the acts above given, there are several provisions which will be found to clash with each other, some of which are noted by the Statute Commissioners on pages 904 and 905 of the edition of the Consolidated Statutes laid before Parliament. They are as follows :

The act 9 Vic. cap. 34, sec. 13 (proviso), in effect says that an *unregistered* judgment shall take effect against a prior registered judgment (i. e., bind lands), when the party who has such prior registered judgment neglects for one year after the entry of such judgment to put his execution against lands in the hands of the sheriff.

The act 13 & 14 Vic. cap. 63, sec. 2, provides that judgments shall be taken to be valid and effectual to charge and bind lands according to the *priority of registration*; and the act 18 Vic. cap. 127, sec. 1, declares that no judgment shall create a lien or charge upon lands, or upon

interests in such lands liable to seizure and sale on execution, *until registered* in the Registry office of the county in which such lands are situated.

Now, as a rule of law cannot be held to have two opposite interpretations; and as a later statute may repeal a former without express words, and as this later enactment is, we think, explicit, that a judgment can bind lands only when registered, it must be held that under its operation the proviso in the 13th section of 9 Vic. c. 34, is repealed. Indeed not only have we the authority of these statutes on the point, but the Court of Queen's Bench, in *Doc dem. Dempsey v. Boulton* (9 U. C. Q. B. 535), held that judgments registered here, bind lands not by relation to the time of entry of judgment, but *from the time of registration*, as did judgments docketed in England (when docketing was required) bind from the time of docketing, and not from the entry of the judgment; and that such registered judgments bind, not with reference to remedy by *elegit*, but for the purpose of a sale under a *fi. fa.* lands. The Court of Chancery, in *Bethune v. Caulcutt* (1 Gr. Ch. 81), held similarly—that judgments bind only from the time of their registration. The question, however, of the effect of the proviso in the 9th Vic. came up for consideration, in 1853, in the case of *Moffatt v. March* (3 Gr. Ch. 623), and it was held that it was intended to apply to conflicts between unregistered and registered judgments; that, being entirely negative in its provisions, it gave no new efficacy to an unregistered judgment, but on the contrary deprived it of a priority which it was assumed it would have had, and postponed it unless the creditor, who was subsequent in point of time, but prior in point of registration, has neglected to sue out his writ upon his judgment for a year after its entry. But it cannot be held that a sheriff's sale under such "unregistered" judgment could now cut out the prior registered judgment. In the first place, such judgment must be registered before the sale can properly take place; and in the next place, such sale would be only of the debtor's interest in the lands, of course subject to whatever incumbrances were registered prior to the judgment on which the *fi. fa.* lands issued.

Another legislative clashing may be discovered in the wording of the 2nd and 3rd sections of the 13 & 14 Vic. cap. 63. The 2nd section provides that a judgment, when registered, shall operate as a charge upon all lands, &c., in the county, of or to which the debtor is *then, or may become thereafter*, seized, possessed or entitled for *any estate or interest* at law or in equity, or over which *he had then or at any time afterwards* a disposing power; and such charge shall be equivalent to the debtor's having, by writing under his hand, agreed to charge such lands with the amount of such judgment. And in reference to this "disposing power,"