The Land Titles Act (sec. 97), says that registration of a caveat shall have the same effect, as to priority, as registration of the instrument under which the caveator claims. But suppose the plaintiff had filed his transfer from the vendor, would not a Court have been bound to decree, under the circumstances, that he held the land as trustee for the defendants, and was bound to transfer to them? McCarthy, J., says that had the plaintiff registered his title, he could not have been deprived of it except, under sec. 114 of the Act, for fraud, and the plaintiff had not been guilty of fraud. But, aside from the point that registration by the plaintiff with intent to hold the land as his own would have been fraud (*McDonald* v. *Leadley*, 20 D.L.R. 157), the Court would have power to order the plaintiff as trustee for the defendants to make a transfer to them, and action under sec. 114 would not be necessary (*Tucker* v. *Armour*, 6 Terr. L.R. 388).

McCarthy, J., referring to the fact that the land was subject to certain mortgages, which the purchasers had agreed to assume, argued that a duty was thereby cast upon the purchasers, to search the registry, and a search would have disclosed to them that the plaintiff had filed a caveat, and upon the assumed existence of such a duty he based the contention that the caveat was notice to the defendants. The statement of the argument seems to answer it; if it were good, notice or no notice by caveat would depend upon the existence of circumstances creating a duty upon the part of the person it was supposed to notify. The alleged duty of the defendants was to themselves, not to the plaintiff; if they trusted the vendor implicitly, it did not lie in the mouth of his assignee to reproach them. If he could not say, you trusted me, it was your duty not to do so, therefore by paying me imprudently, you have lost your money, how could his assignee say so, charged, as he was, with the same equities and having, as against the purchasers, no right of his own prior to notice to them of the assignment?

Discussing the Ontario cases referred to by the other Judges, as settling that the Registry Act of Ontario did not make registration of an assignment of a mortgage notice to the mortgagor, McCarthy, J., said, that—they were based upon the words of the statute, and that "the registered title is in a mortgagor, whereas a purchaser has no registered title," and therefore should search the register. The fact is, of course, that the rule that "an assignment will not bind the person liable until he has received notice" (Anson on Contracts 8th ed. 293; *Stocks* v. *Dobson*, 4 De G. M. & G. 11, 15, (43 E.R. 411), was established where and when there were no Registry Acts. The cited Ontario cases merely (1) decided that a mortgagee discharging a first mortgage was not affected with notice of a second mortgage (*Trust & Loan Co.* v. *Shaw*, 16 Gr. 448), and (2) suggested that a mortgagor was, perhaps, not affected with notice of an assignment of a mortgage by the registration thereof (*Gilleland* v. *Wadsworth*, 1 A.R. (Ont.) 82). These decisions, it is true, rested upon the words of the Registry Act, but in this sense only, that but for the words thereof there could have been no doubt whatever that registration was not notice.

The suggestion by Moss, J.A., was not essential to the judgment, and has, therefore, no binding force.

Stuart, J., referring, apparently, to the fact that the vendor had executed a transfer to the assignee, expressed the opinion that it was reprehensible