not made an affidavit fourteen days before the term of having duly served under his articles, which must be taken to mean that he had completed his service for a year.

If it occurred to the legislature when they were passing the act that by requiring such affidavit to be furnished fourteen days before the term they would in some cases be exposing the candidate for admission to the loss of a term, they might perhaps have provided against that by allowing that affidavit to be filed at any time before he presented himself to be sworn in; but the act does not so provide; it rather affords evidence that the legislature was disposed to guard against this inconvenience, except in cases of persons who had entered into articles before the 1st of July, 1858. See sec. 54.

There is no room for any latitude of construction in regard to this requisition of the statute, as there necessarily must be in some degree with respect to what constitutes service within the meaning of the act. It is quite clear that consistently with the statute, so far as regards the year's service being duly completed, the candidate must be in a situation to make the affidavit fourteen days before the term begins.

It will only be necessary that hereafter, in view of the possible loss of a term, care should be taken to enter into the contract of service a sufficient number of days before the term to escape the difficulty of not leaving fourteen clear days between the expiration of the articles and the term that will follow next after.

HARRISON V. BREGA.

Registrar—Omission of mortgage in certificate—Action therefor—Notice of action and limitation—Consol. Stats. U. C., chaps. 126, 89—Damages—Costs of suit by first Mortgagee.

A registrar being applied to by the plaintiff for a certificate of the registries on a lot, gave one in which he omitted to mention a mortgage for $6-0, prior to that which the plaintiff purchased, supposing it from the certificate, to be a first encumbrance. The first mortgagee obtained a decree for sale, and the plaintiff purchased the land at less than would satisfy the two mortgages, but he soon afterwards sold at a considerable advance so that in the end he would receive all that he had paid for his mortgage. In an action against the registrar for this omission in his certificate, the jury gave $500 damages.

Held, that the registrar was not entitled to notice of action, and that the six months' limitation clause did not apply, for though an officer within the meaning of the act, Consol. Stat. U. C., ch. 126, this was not an act committed, but a negligent omission.

Held, also, that the damages were moderate, the plaintiff having in fact sustained loss to the full amount of the first mortgage.

The plaintiff having been made a party to a suit in chancery on the first mortgage endeavoured to obtain priority, but failed in his defence, and was compelled to pay costs. Whether these costs could be recovered from the registrar was a point raised, but not decided, as it was uncertain whether they were included in the verdict. [H. T., 24 Vic.]

The plaintiff sued defendant, who was registrar for the county of Peel, for damages which he alleged he had sustained from the defendant having given an erroneous certificate as registrar of the state of the title to a certain parcel of land, upon which a mortgage had been given, and which mortgage the plaintiff proposed to purchase, and did purchase, relying upon the accuracy of the registrar's certificate.

The declaration contained two counts, but the first only was relied upon at the trial, and the other was abandoned.

The first count stated in substance that on the 15th day of July, 1857, one Robert Campbell had made a mortgage of certain 175 acres of lot 6, in the second concession south of Dundas street, in the township of Toronto, to James Farrell and his assigns, to secure £600, with interest, which mortgage was registered by defendant on the 15th of July, 1857: that the plaintiff agreed afterwards to purchase the said mortgage from Farrell, for a certain sum of money to be paid for the same, provided it should be found by search at the registry office that this was the first incumbrance upon the land, as Farrell had represented it to be: that on the 1st of September, 1857, the plaintiff required the defendant, as registrar, to search into the title, and to send a certificate, and paid him therefor; and the declaration charged that the defendant did not carefully search, and did not send a true certificate of the state of the title, but neglected his duty in that behalf, and erroneously and untruly certified that the mortgage to Farrell was the first undischarged mortgage or incumbrance created by Campbell on the land, or any part of it, which had been registered in his office: that the plaintiff relying upon this, and having no knowledge to the contrary, bought the mortgage from Farrell, and paid for it the price agreed upon, and took from him an assignment, which was duly registered on the 29th of September, 1857, whereas in truth Campbell, before he gave the mortgage to Farrell, had, on the 21st of August, 1854, made a mortgage on the same land to one James Spurrill, for £150, payable with interest, which mortgage was on the 29th of August, 1854, duly registered by defendant, as registrar, but all mention of it omitted in the certificate given by the defendant to the plaintiff of the state of the title.

The plaintiff then averred that that the debt of Campbell to Spurrill not being paid when due, Spurrill, after the assignment had been registered, filed a bill in Chancery to obtain a sale of the land: that the plaintiff, being made a defendant in that suit, endeavoured to make good his claim to priority as a *bonâ fide* purchaser of the second mortgage for value without notice of the first, but failed in his defence: that the land was ordered to be sold to pay Spurrill's debt, interest, and costs, in the first place, and that when this was done, and the surplus of the proceeds applied towards the satisfaction of the plaintiff's mortgage, interest, and costs, which then amounted to £749 19s., it left a deficiency of £238 19s 11d., and the plaintiff averred that he had thereby lost that amount, and interest from the 12th of October, 1860.

The defendant pleaded not guilty, by statutes, Consol Stats. U. C., ch., 126, secs. 9, 10, 11, 20, and ch. 89, secs. 9 to 13 inclusive, and sec. 67.

At the trial at Toronto before *McLean, J.*, the plaintiff produced defendant's certificate, as registrar, dated the 23rd of September, 1857, in which there was no mention made of the mortgage to Spurrill, and it was proved that long afterwards, when the plaintiff was informed of that mortgage, and of the intention of Spurrill, to file a bill, his son, who transacted business for him as his attorney, wrote again to the registrar to request another search and certificate, and on the 11th of February, 1859, the defendant sent him another certificate in which also Spurrill's mortgage was omitted.

To both papers the registrar certified at the foot that they were correct to the best of his knowledge and belief.

A few days after the last certificate was received the plaintiff's son saw the mortgage given to Spurrill in the hands of his Solicitor, and wrote again to the defendant stating this; and he then received from him a statement of the registry of Spurrill's mortgage on the 29th of August, 1854, with the remark, "The above was overlooked in consequence of not having been marked in the index.

It was proved at the trial that the plaintiff, when he bought Farrell's mortgage, did not give him the full £600 and interest for it: that Farrell's mortgage contained the usual covenant by Campbell to pay the money, but that Campbell was now insolvent: that when the land was sold by decree of the court of Chancery it brought £760: that the plaintiff afterwards bought it of the gentleman who had bid it off, giving him £25 for his purchase, and paying the price bid himself, and that he soon afterwards disposed of the land for £1 000, of which £600 had been paid, so that the plaintiff would probably at least have received the full amount of the mortgage money, without bringing this action, but he would have paid more for it than he contemplated, and more that he would have had to pay if the defendant had done his duty accurately.

The defendants counsel moved for a nonsuit on the grounds that no notice of action had been given, and that the action should have been brought within six months.

The learned judge reserved leave to move afterwards on these exceptions, and told the jury that the defendant was liable for the damages occasioned by his mistake or omission: that by the sale which took place under the decree in Spurrill's suit, the lands passed into the hands of a stranger, at a price which would have left the plaintiff's debt unsatisfied to the amount of £238 10s., and that the plaintiff having idemnified himself to a great extent, if not fully, by his subsequent purchase of the land from another, and his resale of it an advanced price, was not a matter of which the defendant was entitled to take advantage. He held that the plaintiff was entitled to recover the costs of his defence in the Chancery suit, but desired the jury to give such amount of damages as they might think reasonable upon the evidence.

The jury gave a verdict for the plaintiff, and $500 damages.

M. C. Cameron obtained a rule *nisi* for a nonsuit on the leave reserved; or for a new trial on the law and evidence, for excessive