JUDGMENT:

There is nothing clearly against it in any law or decision up to the passing of 20 Vic. cap. 3, in force on 1st of August next, which has the *appearance* of permitting this course for the *first time*, but nowhere *implies* that the law was previously otherwise, as its 3rd section only limits the time such security has to run, in the first instance to one year, renewable within 30 days of its expiration—providing more particularly than formerly as to its *bona fides*, so as to be valid as against creditors, subsequent purchasers and mortgagees in good faith.

Previous to the statute all this might have happened, and often did take place for *other* periods than *one year*—and this statute only restored it, providing carefully for the manner of doing it.

Many cases were decided before and after the former Acts on this subject, but the latest are in 5 C.P.R. 185 and 344, 5—*Ross v. Winans*, mortgage on land, and *Canuff v. Bogart*, chattel mortgage—both to secure from loss on *accommodation* paper not then due, in which there does not appear to be any objection to this course—though the chattel mortgage was considered *void* as against an execution creditor for not being registered, the mortgage not having been accompanied by an immediate delivery, followed by an actual and continued change of possession of the chattel in lieu of registry: otherwise it was conceded the security for the future liability would have been sound under the *then* statutes.

As to infancy, the execution creditor and the claimant are *pari passu*—in the same position. We cannot very well take defendant to be an infant to defeat the previous chattel mortgage, and in the same breath hold him to be of age to support the after judgment and execution—though it seems the claimant acted towards him as being of age by endorsing his note and taking his mortgage, and also at some time (not stated when) said or admitted he was an infant. But against this I take it, defendant by his own acts *so far*, has declared himself of age, i.e., by not pleading infancy to the execution creditor's action, and not denying the validity of claimants chattel mortgage by any legal or equitable proceeding.

In the present state of this case, if infancy (clearly established by other parties) could have any effect, though none can urge it but himself, it would be the making the claimant's liability *more present* than *future*—if that can have any more favorable effect upon the security, (though it appears to me to make no difference here) as defendant might not only fail to pay the note at maturity but plead infancy to any subsequent suit on it, leaving the claimant the only party certainly to the holder.

*Order*, that Sheriff withdraw and for no action, &c.; each party to bear his own costs.

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# THE LAW JOURNAL.

## *JULY*, 1857.

### OUR NEW ARRANGEMENTS.

This number of the *Journal* is issued under the recent Editorial arrangements, and will be the last published in Barrie.

Hereafter the *Law Journal* will be printed and published for the Editors at Toronto by Messrs. Maclear & Co., the leading if not the first publishing house in Canada.

The *Journal* will appear punctually in the first week in each month, and will be mailed in Toronto to each subscriber's address on the day of publication.

We trust with the enlarged facilities we shall now have, to render the *Journal* more useful to all interested in the subjects it embraces.

It will now be a prominent object of the Editors to pay especial attention to the Practice of the Courts; and we hope to be of material use to the profession by keeping them informed as to decisions on matters of Practice. Such decisions are less regulated by general principles than the other branches of the Law. They are often arbitrary, and not less arbitrary than inflexible: on that account it is difficult to remember them, and much more so than rules of law traceable to some well known principle.

The recollection of the one, however, is not less important than the recollection of the other. Without a knowledge of the Practice a knowledge of the Law would be to many persons barren and useless.

Happily, owing to recent and extensive legislative changes, the Practice of the Superior Courts of Common Law and that of the County Courts, is now the same, and the machinery of these several Courts are very nearly alike. This will give additional and enlarged value to reports.

We will endeavour to keep the Profession well posted up in the cases decided here and at home.