protection under the receipt, which to them was conclusive evidence of the payment of the whole consideration expressed in the original mortgage.

By the interpretation clause of the same Act (R.S.O. ch. 109) the word "conveyance" includes assignment, mortgage, etc.: sec. 2 (*a*), and mortgage includes charge: sec. 2 (*c*).

The effect of this enactment standing alone is therefore to put the assignee of a mortgage in almost the same position as the purchaser of land, where the fact is that none, or some part only, of the consideration has actually been advanced. The assignee is entitled to assume (in the absence of notice to the contrary) that the whole consideration has been paid, and need make no inquiry of the mortgagor or chargor. But he takes subject to the state of the accounts between the mortgagor and mortgagee as to subsequent dealings between them.

5. *No notice of assignment to mortgagor.*—A mortgage or a charge is a chose in action and subject to the enactment relating to the assignment of choses in action. By R.S.O. ch. 109, sec. 49, it is provided that any absolute assignment of a chose in action "of which express notice in writing shall have been given to the debtor" shall be effectual in law to pass and transfer the legal right to such chose in action "from the date of such notice."

It is clear from this enactment that the right to the debt, as distinguished from the title to the land, depends upon the giving of the notice. The title in the assignee is not legally perfect if the notice is not given. No time is fixed or limited for the giving of the notice, except that it must be given before action brought, otherwise the plaintiff's title will not be complete. In *Bateman* v. *Hunt*, [1904] 2 K.B. 530, *supra*, the notice was not given by the sub-mortgagee, but it was given by his executors, the plaintiffs, before action brought, and it was held to be effectual.

In *Pringle* v. *Hutson*, 14 O.W.R. at p. 1085, it is pointed out that the assignee of a mortgage cannot sue without adding the mortgagee if he has not given notice of the assignment to the mortgagor. It does not appear from the report of the principal case whether notice of the assignment was given. But it may be assumed that, if such a notice had been given to the mortgagor, he could have been put on the alert, and that something would have been heard of that at the trial. It may be good policy, however, on the part of the assignee of a mortgage, not to give the notice until his transaction is completed, inasmuch as he is so well protected by the receipt clause. And in any event, the requirement as to notice is no protection to the mortgagor, in a case where the mortgage money is not advanced, because it is not required to be given until after the assignment has been effected.

6. *The defence of purchase for value of a mortgage.*—This point was not dealt with expressly in the case, except in so far as the embodied receipt protected the plaintiff. There is another enactment, the effect of which is problematical, in view of the present case and the authorities upon which it was decided. By R.S.O. ch. 112, sec. 12, it is enacted that "the purchaser in good faith of a mortgage may, to the extent of the mortgage, and *except as against the mortgagor*, set up the defence of purchase for value without notice in the same manner as a purchaser of the mortgaged property might do." Reference may be made to two articles on defence of purchase for