

by the vendor, one to whom the vendee agrees to sell a portion of the land does not acquire priority, by the filing of a caveat, over a third person who for value and without notice of the caveator's claim with the approval of the original vendor, took an assignment of the original vendee's entire interest: *Re Green* (Sask.), 9 D.L.R. 301.

A person who sells land under an agreement that the purchaser should give back a purchase money mortgage thereon which he failed to do, will, by filing a caveat, acquire a superior right over a mortgage subsequently given by the purchaser to a third person: *Thompson v. Yockney* (Man.), 8 D.L.R. 776. And a mortgagee, whose mortgage by reason of a defective description of the land, cannot be registered, may protect his rights against subsequent encumbrances by filing a caveat: *Reeves v. Stead* (Sask.), 13 D.L.R. 422.

A vendee in a contract for the purchase of land does not, by the filing of a caveat, acquire priority over an execution lodged against the land before the making of the agreement of sale: *Re Price*, 5 Sask. L.R. 318, 4 D.L.R. 407. And where, by reason of a misdescription of the land, a mortgage given by a vendee who had not acquired title, was not subject to registration, and the mortgagee filed a caveat, the priority thus acquired against executions subsequently lodged against the vendee is lost by the mortgagee, on the vendee acquiring title to the land, taking and registering a new mortgage and voluntarily discharging his caveat: *Rogers Lumber Co. v. Smith* (Sask.), 3 D.L.R. 871.

In *Arnot v. Peterson*, 4 Alta. L.R. 324, 4 D.L.R. 861, Beck, J., in speaking of the effect of sec. 97 of the Alberta Land Titles Act, 6 Edw. VII. ch. 24, which declares that "registration by way of caveat . . . shall have the same effect as to priority as the registration of any instrument under" the Act, in effect, said that such priority applies only to those claiming under the same root of title, and that the one first filing a caveat would thereby acquire priority over the other; but that priority could not be thus acquired where the caveator and the caveatee claimed under a different root or title.

Harvey, C.J., Beck, Simmons,  
and Walsh, JJ.]

[14 D.L.R. 193.

SASKATCHEWAN LAND AND HOMESTEAD CO. v. CALGARY AND  
EDMONTON R. CO.

1. *Damages—Measure of compensation—Condemnation or depreciation by eminent domain—Value—Estimate as of what time—Land taken by railway to obtain gravel.*

Compensation for land taken by a railway company under s. 180 of the Railway Act, R.S.C. 1906, ch. 37, to obtain a supply of material for the construction, maintenance or operation of a