

1. Supposing that the debtor is only possessed of one chattel ordinarily used in his trade or occupation—say one horse—of *greater value* than \$60, would the horse be liable to be sold by the sheriff, and the proceeds applied on the execution, or could the debtor claim \$60 of his value.

In the case of *Davidson et al. v. Reynold et al.*, Mr. Justice John Wilson, in delivering judgment, says, "We are of opinion that a horse ordinarily in a debtors occupation, of the value of \$60 or less, &c., &c., is exempt &c., under the statute."

2. Is it the duty of the debtor to point out, and claim from the sheriff or his officer the goods that are exempt, or should they be left by the sheriff although no claim is made to them.

I am, Gentlemen,

Your obedient servant,

D.

Berlin, 24th Feb., 1866.

[The questions put by our correspondent are not free from difficulty, and must be answered without the aid of any decided case.

1. The part of the act to which our correspondent refers, exempts "goods and implements of, or chattels ordinarily used in the debtors occupation, to the value of sixty dollars." Strictly speaking, this might be read, tools, &c., *not exceeding the value of sixty dollars*. Now a horse exceeding sixty dollars in value, does not come under this description, and as it is in its nature indivisible, the difficulty arises as to the application of the act. The horse exceeding sixty dollars in value would certainly not be exempt from seizure, and not being exempt from seizure, of course might be legally sold by the sheriff. And the act makes no provision for the return of a portion of its proceeds to the debtor, where the proceeds exceed sixty dollars. In the absence of such a provision, we think, though not free from doubt, the whole proceeds would be applicable to the execution.

2. The articles specified are declared to be "exempt from seizure." And if there were only one article sixty dollars of the class exempt (*i.e.*, one horse of the value of \$60) it would be the duty of the sheriff to refrain from seizing or selling that article. But where there are several (*i.e.*, several horses of the value of \$60 each) we think it devolves upon the debtor to make a selection, and if he neglect or refuse to do so, upon proper notice

from the sheriff, it would necessarily devolve on the sheriff to make the selection for him.—Eds. L. J.]

Registry Act—Affidavit of execution not on some part of instrument itself—Whether necessary.

TO THE EDITORS OF THE U. C. LAW JOURNAL.

GENTLEMEN,—The Registrar of this county refuses to receive for registration any instrument the affidavit of execution of which is written on the *last* sheet, provided there is *no portion* of the instrument itself written thereon. He contends that such is not "*made on the said instrument*;" that in some instruments there are as many as three unwritten sheets, any one of which *might* be detached from their fastenings without touching *the instrument*. Is he right in this view of the matter?

Yours truly,

Goderich.

A SUBSCRIBER.

[The matter admits of argument, but we at present think that the affidavit is by the act required to be on some part of the instrument itself, and that annexing an affidavit does not seem to be sufficient under the wording of the statute.—Eds. L. J.]

REVIEW.

THE REGISTRY ACT OF 1865, (29 Vic. chap. 24), with NOTES and APPENDIX, by SAMUEL GEORGE WOOD, LL.B., of Osgoode Hall, Barrister-at-Law: Toronto, W. C. Chewett & Co., 1866.

We are in receipt of a copy of a most useful little book under the above title.

It commences with a preface "comprising a sketch of the history of the Registry Laws of Upper Canada, and some remarks upon the operation of the new Act," which bring us down to the present time, from the first Registry Act of 35 Geo. III., cap. 5. This is followed by an index of cases and of Statutes referred to in the notes. We then have the Act of 1865, with notes of decided cases on the subject in hand, and other matters of interest tending to elucidate doubtful points under the Act. These notes appear to be carefully prepared, and exhaust the cases which have been decided in this country on the subject of the Registry Acts, besides containing references to several English and Irish decisions. We give the following, being a note to section 64, as an example of the style.

"Registration is not notice under the Registry Acts of England and Ireland, nor was it in Upper Canada prior to Statute 13 & 14 Vic. cap. 63, sec. 8. (See *Street v. Commercial Bank*, 1 Grant, 169.)