

against any lands exempted by R.S.M., c. 80, s. 12. The land in question was at the time of the conveyance, and continued to be the actual residence or home of the debtor.

Held, allowing the appeal with costs,

1. Following *Frost v. Driver*, 10 M.R. 319, that the registration of a certificate of judgment binds and charges the land of the judgment debtor, though it may be his actual residence or home, and enables the creditor to take proceedings to realize whenever the defendant ceases to be entitled to claim the property as his exemption.

2. Following *Brimstone v. Smith*, 1 M.R. 302, and *Massey-Harris Co. v. Warner*, decided by BAIN, J., not reported, that, when the debtor had absolutely conveyed all his interest in the land by a conveyance valid and binding on him, even when set aside by the court, as against creditors, the claim that the land was an exemption of the debtors could not be maintained.

3. The plaintiff was entitled to judgment setting aside the conveyance as fraudulent against him and ordering a sale of the land to realize the amount of his claim and costs. *Taylor v. Cummings*, 27 S.C.R. 592, distinguished. The lands that are to be exempt under R.S.M., c. 80, s. 12, are such only as belong to the judgment debtor himself or in which he has some interest, and that would be bound by the registration of a judgment against him at the time when the claim for exemption is made, and the words "any person," in the expression "the actual residence or home of any person," must be understood to mean only any judgment debtor.

4. The husband could not claim the exemption because the property did not belong to him when the claim for the exemption was set up, and the wife could not claim it because, as decided in *Young v. Short*, 3 M.R. 302, an exemption is a privilege incapable of being transferred and of which only the debtor can avail himself.

5. To the argument that, because the creditor claimed that the deed was void as against him, he could not say at the same time that the property was transferred away from the debtor, the answer of the court was that the transfer was effectual to divest the debtor of his property, but not to free it from liability to be subject to judgment and execution.

Wilson, for plaintiff. *Whitla*, for defendant.

Full Court.] ROYLE v. CANADIAN NORTHERN R.W. CO. [Dec. 20, 1902.
Railway—Highway crossing—Omission to ring bell or sound whistle—Contributory negligence.

Appeal from judgment of a County Court in favour of the plaintiff in an action for damages for injuries sustained by plaintiff's vehicle being struck by an engine of defendants, when driving over a railway track where a trail on private property crosses it. It appeared that the trail was in no sense a public highway, although the owner of the property had allowed