

OSLER, J.A.:—The only question intended to be raised by the appeal is whether the renewal statement and affidavit of the amount due on the chattel mortgage, the subject of the action, was filed in time, within the meaning of sec. 18 of the Bills of Sale and Chattel Mortgage Act, R. S. O. 1897 ch. 146, which enacts that "every mortgage . . . filed in pursuance of this Act shall cease to be valid . . . after the expiration of one year from the day of the filing thereof, unless, within 30 days next preceding the expiration of the said term of one year, a statement exhibiting the interest of the mortgagee . . . is filed in the office of the clerk of the County Court." The chattel mortgage was filed on 26th April, 1904. When did "the term of one year from the day of the filing thereof" expire? "From," according to all modern authorities, when a particular time is given from a certain date within which an act is to be done, would exclude the day of filing, and therefore the year from the day of filing began at the earliest moment of the 27th April, 1904, and expired at midnight of the 26th April, 1905. And the renewal statement, to be valid, must have been filed within 30 days next preceding the expiration, not the day of the expiration of that year, and therefore a filing of the statement at any time on the 26th, as it here was filed, would be sufficient. The late Mr. Justice Patterson would evidently have taken this view of the construction of an Act, as in *Thompson v. Quirk*, noted in 18 S. C. R. 696 (appendix), and reported in *Cameron's Supreme Court Cases*, p. 436, he expressed the opinion, obiter no doubt, that under a North-West Territories Ordinance similar in terms to our former Chattel Mortgage Act, providing that the mortgage should cease to be valid after the expiration of one year from the filing thereof, the whole day of the original filing was excluded from the computation of the year, which, perhaps, had not been so held by our Courts: see *Armstrong v. Ausman*, 11 U. C. R. 498. Nothing now seems to turn upon the hour of the original filing, as by 57 Vict. ch. 37, sec. 14, the language of the section was changed as it now appears.

Cases upon the renewal of writs of execution, e.g., *Bank of Montreal v. Taylor*, 15 C. P. 107, have no application, for they turn partly upon the application of the rule that a judicial act such as the issuing of execution is, in contemplation of law, deemed to have taken place at the earliest