

REVIEWS—CORRESPONDENCE.

inasmuch as there is no extended work from which the cases on the subject can be abridged, but they had to be collected here and there from the Reports at large. The book consists of some forty-six cases with nine brief *excursus* upon the points illustrated by the cases. The latter are not reported at length, but merely consist of what might be called head notes, containing generally a statement of the case, the argument in short, and the points actually decided. We recognize among the cases such old familiar friends as *Ashby v. White*, and *Fabrigas v. Mostyn*, with those famous cases of the *Seven Bishops' Case* and the *Ship Money Case*. As the reading of the majority of the profession is not sufficiently extensive to include an accurate knowledge of constitutional cases, we can safely recommend them to purchase this little volume, whereby they can acquire a sufficiently practical knowledge of the subject. We notice a rather curious error in one of the cases, where Sir William Scott and his brother Lord Eldon are made the same person.

CORRESPONDENCE.

Suggested Amendments of the Law.

TO THE EDITOR OF THE LAW JOURNAL.

DEAR SIR,—Permit me to mention one or two objections, to which it seems to me some of the proposals for the Amendments of the Law, mentioned in the last issue of your paper, are open.

The first proposition is to make a *fi. fa.* lands bind the interest of a mortgagee. As the law at present stands this kind of interest before foreclosure can only be reached under a *fi. fa.* goods, for the obvious reason that the mortgagee's beneficial interest is personalty and not realty in the eye of law. To make a *fi. fa.* lands bind the mortgagee's interest would be a departure from this principle. It is possibly supposed that this would compel purchasers from the mortgagee to search in the Sheriff's office for executions, but does not a *fi. fa.* goods now bind the mortgagee's interest just as effectually

as a *fi. fa.* lands would, and if purchasers can now be found to buy from a mortgagee, notwithstanding, a *fi. fa.* goods in the Sheriff's hands, is it not every bit as likely that they will buy, notwithstanding a *fi. fa.* lands? I do not think the amendment proposed would prevent the mortgagee dealing with the mortgage security to the prejudice of his execution creditor. I would suggest that some provision for compelling the mortgagee to deliver up possession of the security to the Sheriff, or other officer having the execution, would be a more feasible way of meeting the difficulty.

The second proposition I do not think accords with sound principles of justice. An execution creditor and a prior purchaser for value, who has not registered his conveyance, stand on an entirely different footing; the one has advanced his money upon the express security of the land purchased or mortgaged, the other has not. To enable the latter to realise his debt out of the property which another has honestly bought and paid for, merely because that other person has omitted to register his deed—an omission be it observed which in no way prejudiced the execution creditor, or induced him to give credit to the debtor,—seems repugnant to common sense as well as equity.

With regard to propositions 8, 9, and 10, it seems to me the remedies suggested do not go sufficiently to the root of the matter. I would venture to suggest that the right of dower as well as curtesy should be absolutely and beyond a doubt abolished. It may be said that curtesy is already abolished, but the statute is so worded as at all events to afford a peg to hang an argument on, that after the death of the wife, the husband would be entitled to claim, (see however observation of Harrison, C.J. in 37 Q. B. 551.) Doubtless the Chief Justice's view of the statute is correct, but it would be as well to put the matter beyond doubt.