for in kind or value the property in it passes to the bailee or vendee. In either case where a loss occurs it must fall on the bailee or vendee, for on the one hand he has converted the goods to his own use, on the other, he has the property therein.‡

The obvious injustice of such a conclusion, its manifest inconsistency with the intention of the parties and its practical inconvenience have led to its final rejection, notwithstanding the cogency of the argument by which it is sustained. If it had been permitted to prevail, every warehouseman who carried on the business of storing grain, as now conducted, would be an insurer of the grain in his elevator—against all casualties whatsoever, whether or not he contracts to the contrary.

The holder of a receipt would be in no better position than a general creditor of the warehouseman, to the amount of grain deposited. The warehouseman might conduct his business like a bank, and issue certificates of deposit. So long as he keeps on hand grain enough to meet current demands, no one has a right to complain. The statutes of most of the States and the parties themseves contemplated quite a different relation. The holder of a warehouse receipt is presumed to be the owner of goods actually in store, if not of the identical goods originally deposited, yet goods of an equivalent amount of equal quality, by which they have been replaced. No one would be more ready to proclaim this theory of right than the holder of the receipt himself, where he is brought into conflict with a general creditor of a warehouseman, although he might be reluctant to confess it, if the elevator and contents were destroyed by fire or inevitable accident. The courts have cured the anomaly by confessing it. The contract more nearly resembles a bailment than a sale; accordingly the principles of right applicable to bailments determine the rights of the parties. Where, therefore, grain is stored in an elevator, with the understanding that it may be mixed with and accounted for in other grain of like quality and kind, the transaction is a bailment and not a sale, definitions to the contrary notwithstanding.§—*I. L. Lionberger in Central Law Journal.*

‡ *Chase* v. *Washburn*, 1 Ohio] St. 244; *Richardson* v. *Olmstead*, 74 Ill. 213. See civil law Mutuum Inst. lib. 3 tit. 15, Dig. lib. 44 tit. 9. Pothier Pand. lib. 12, tit. 1 Nos. 9 and 10; Jones on Bailment, 64-102, etc. *Johnston* v. *Browne*, 39 Iowa 200; *Norton* v. *Woodruff*, 2 Comst. 155; *Smith* v. *Clarke*, 21 Wend. 84; *Hurd* v. *West*, 7 Cow. 752; *Baker* v. *Roberts*, 8 Green]. 101: *Ewing* v. *French*, 1 Blackf. 354; *Wilson* v. *Cooper*, 10 Iowa 565: *Ruffman* v. *Merry*, 3 Mason, 478; 3 Kent Com. 589; Story on Bail, 193; 7 N. Y. 433; *Brown* v. *Hitchcock*, 28 Vt. 452; *Richardson* v. *Olmstead*, 74 Ill. 213; *Mallory* v. *Willis*, 4 Comst. 77, 85; *Pilice* v. *Schenck*, 3 Hall, 28; *Carlisle* v. *Wallace*, 12 Ind. 252; *Dickson* v. *Cass Co.* etc. 42 Iowa, 38.

§ *Nelson* v. *Brown*, 44 Iowa 455; *Nelson* v. *Brown*, 53 Iowa, 555; *Chase* v. *Washburn*, 1 Ohio St. 244; *German Bank* v. *Meadowcroft*, 4 Brad. 636; *Ledyard* v. *Hibbard*, 14 Rep. 213; *Dows* v. *Ekstrone*, 1 McCrary 434; *Greenlief* v. *Dows*, 3 McCrary 27; *Young* v. *Miles*, 20 Wis. 615.

GENERAL NOTES.

"*Grip*" sends out with its Christmas number a beautifully executed coloured portrait of the Canadian Premier in the official robes of his latest dignity. The picture has considerable artistic merit.

Lord Bacon, in his paper on the "Amendment of the Common Law," wrote:—"Great judges are unfit persons to be reporters; for they have either too little leisure or too much authority, as may appear well by those two books, whereof that of my Lord Dyer is but a kind of note-book, and those of my Lord Coke hold too much *de proprio*."

In *Nash* v. *Battersby*, 2 Ld. Raym. 986 and 6 Mod. 80, the plaintiff declared with the addition of gentleman. The defendant pleaded in abatement that the plaintiff was no gentleman. The plaintiff demurred, and it was ill; for, said the Court, it amounts to a confession that the plaintiff is no gentleman, and then not the person named in the count. He should have replied that he is a gentleman.

The late John Rea, of Belfast, who defended Mr. Biggar, M.P., at Sligo, did not entertain the highest opinion of magisterial wisdom. In the course of an interminable speech before a local stipendary, he was interrupted with the remark, "You may speak till midnight, Mr. Rea, but I assure you all you say simply enters into one of my ears and goes out of the other." To which Mr. Rea retorted, "I have always been distressed by the suspicion that there is nothing between your worship's ears to intercept anything!"

The Baltimore & Ohio Railroad Co., a corporation having its home office in Baltimore city, in the State of Maryland, leased and operated several lines of railroad in the State of Virginia, using its own rolling stock. A portion of this stock was seized by officers of latter State in an effort made by it to enforce the payment of a tax levied thereon. The B. & O. R. R. Co. obtained an order restraining the sale, and, on motion to dissolve this order, the Court held that the rolling stock was personal property and as such was liable to taxation at the home office of the corporation, and in the absence of legislation on the subject was not liable to taxation in Virginia or elsewhere.—(*Baltimore & Ohio R. R.* v. *S. Brown Allen et al.*, U. S. Dis. Ct. of Va.)—*Boston Law Record.*