

SALE OF GOODS BY HIRE—BONA FIDE PURCHASER OF GOODS—CONVICTION OF HIRER FOR LARCENY—RESTITUTION OF STOLEN GOODS—(CR. CODE, s. 838)—HIRE AND PURCHASE AGREEMENT—CONVERSION—FACTORS ACT, 1889 (52 & 53 VICT., c. 45), s. 9.

In *Payne v. Wilson*, (1895) 1 Q.B. 653; 15 R. April 275, the plaintiff sought to recover possession of a piano which the defendant had purchased under the following circumstances: The piano in question had been let by the plaintiff to one Sullivan, under a hire and purchase agreement, by which the piano was to remain the property of the plaintiff until all the monthly instalments provided for by the agreement were paid. Before they had all been paid Sullivan sold the piano to the defendant, who bought it in good faith and without notice of any lien or other right of the plaintiff. Sullivan was subsequently convicted of larceny of the piano as a bailee, and the plaintiff applied for an order of restitution, which was refused, and thereupon sued the defendant for conversion of the piano. The Divisional Court (Pollock, B., and Grantham, J.) held that the plaintiff was not entitled to succeed. The English Factors Act, 1889, contains an express provision validating sales made by bailees under hire and purchase agreements to *bona fide* purchasers, but we do not appear to have any similar legislation in Ontario, and it may be doubtful whether under similar circumstances here a plaintiff would not be entitled to succeed. It is true that under the Cr. Code s. 838, an order for restitution of stolen property is not to be made "if it appears that the property stolen has been transferred to an innocent purchaser for value, who has acquired a lawful title thereto." But that does not affect the civil remedy apparently, and it leaves open the question whether "a lawful title" can be acquired from a bailee of goods.

JUDGE, ACTION AGAINST—ACT DONE IN EXERCISE OF JUDICIAL OFFICE—MALICE—COLONIAL COURT OF RECORD.

*Anderson v. Gorrie*, (1894) 1 Q.B. 668; 14 R. Feb. 283, is not an instance of very expeditious reporting. The case was determined in August last, and was reported as long ago as November 17 in *The Law Times*. The action was brought against three judges of the Supreme Court of a colony in respect of an act done by them in their judicial capacity. The jury found that one of the defendants had acted oppressively and maliciously to the prejudice of the plaintiff and in perversion of justice, and