

OSGOODE HALL.

complete enjoyment and use of it as a chattel. In *McDonald v. Weeks* the present Chancellor says: "If the true criterion be the intention, the object and purpose with which an article is put up, as I think it is, it goes far to remove any reason for the distinction that has been taken between things screwed, bolted, nailed, or otherwise affixed to the soil, and things not so affixed. . . . A distinction based upon the fastening or not fastening of the article to the soil must necessarily lead to the greatest incongruities, and actually did so in the case to which I have last referred (*Gooderham v. Dénholm*). But it may be said we are dealing with fixtures, and that is not a fixture which is not affixed, and that it requires that the affixing in fact and the intention that it should become realty should concur, otherwise the article must remain a chattel. There is certainly authority for this position; but it is founded upon very technical reasoning—the use of the word fixture and its signification. If indeed it were law that nothing could pass with the soil but that which is affixed to the soil, it would have a legal principle in its support, but the law is not so." *McDonald v. Weeks* is followed, though with some hesitation, by V.C. Strong in *Crawford v. Findlay*, 18 Grant 51.

Holland v. Hodgson does not go so far as *McDonald v. Weeks*, the articles declared to be fixtures being all attached in some way, for the purpose of steadying them while in use, to the mill. The principle of a constructive annexation is however recognised. In this case it is said, "Perhaps the true rule is, that articles not otherwise attached to the land than by their own weight are not to be considered as part of the land, unless the circumstances are such as to shew that they were intended to be part of the land, the onus of shewing that they were so intended lying on those who assert

that they have ceased to be chattels; and that, on the contrary, an article which is affixed to the land, even slightly, is to be considered as part of the land, unless the circumstances are such as to shew that it was intended all along to continue a chattel, the onus lying on those who contend that it is a chattel."

A consideration of American cases would only involve us in a hopeless mass of conflicting decisions; but it may be said that in many of the courts, as between vendor and vendees, chattels have been treated as fixtures which bore *such a relation to the land* at the time of the sale as to be essential to its use or enjoyment, and insusceptible of being removed without injury, or used advantageously elsewhere: (See Sm. L. C., Hare and Wallace's notes, II., 279).

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MICHAELMAS TERM, 1875.

At the opening of the Court of Queen's Bench, the Hon. John Hillyard Cameron, as the leader of the Bar, on the new Chief Justice taking his seat, offered his own and the congratulations of his brethren to Mr. Harrison on his elevation to the bench. The Chief Justice made a happy reply, briefly thanking the Bar for their kind wishes, and expressing a hope that he might not be unworthy of the high trust which had been confided to him.

Early in the term the new rules for the conduct of business in term were promulgated. They are given at length in another place.

The following is a list of the gentlemen who succeeded in passing the recent examinations at Osgoode Hall:

Calls to the Bar: Alex. Ferguson, who passed without an oral; G. A. Raden-