From Divisional Court] HOPE *v.* PARROTT. [April 18.

Bills of sale and chattel mortgages—Security of form in absolute sale—Non-compliance with Chattel Mortgage Act—Invalidity.

In case of a transaction which is in effect one giving a security for an existing debt or loan, the lender or grantor cannot evade compliance with the sections of the Bills of Sale and Chattel Mortgage Act, R. S. O. 148, which relate to such a transaction, merely by adopting a form of security appropriate to an absolute sale. If, however, the real transaction is a sale with a right of repurchasing upon certain terms, the vendor can only be required to observe the requirements of section 6 of that act.

Held, therefore, in this case that since what purported to be Bills of Sale of certain goods were given in fact as transfers for security only, as was established by the facts of the case, as for example, by the fact that the consideration named had no relation to the selling price of the chattels, and that the chattels were intended to remain and did remain in the possession of the grantors, and were used by them without any rent or hire paid or agreed to be paid therefor, and the grantee admitted that from the first he expected to be repaid the consideration money, although he denied, apparently erroneously, that any right of redemption was reserved to the grantors at the time or as part of the transaction, the instruments were within ss. 2 and 3 of the said Act, and since the requirements of the said Act with regard to Chattel Mortgages had not been complied with, they were invalid.

Shepley, K. C., for defendant, appellant. *Master*, for plaintiffs, respondents.

From Britton, BRIDGMAN *v.* ROBINSON. [April 18.

Vendor and purchaser—Conditional sale—Recumption of possession—Implied contract.

Certain goods were delivered to the plaintiff by the vendor on the terms of two conditional sale agreements. The total price was $600, to be paid part in 30 days after delivery, and the balance in 3 months with interest. It was agreed that until payment in full the goods were to remain the property of the vendors, and that on default for one month of any of the payments, or of any extended payment, the whole balance of the purchase money should become due and the company, notwithstanding action or judgment recovered therefor, might resume possession and resell, etc. The plaintiff got into default although he continued in possession, and in August, 1902, an agreement was come to between him and the vendors that he should pay $50 on account, and the balance of $242, made up of arrears of principal and interest, in quarterly instalments of $30 with interest. The plaintiff paid the $50. In October, 1902, the defendant who had a judgment against the plaintiff paid the vendors the whole balance