

Geo. II. cap. 7, which gives the same process of execution against lands as against goods." Since then we have not heard of a case in which a writ of *elegit* has been issued in Upper Canada, and we may therefore consider such a writ not in force here.

Under various enactments, the following are declared to be binding on lands, when the proper certificates thereof are registered in the county in which the debtor's lands lie.

1. Judgments of any Court of Record in Upper Canada. (9 Vic. cap. 34, sec. 13, and 13 & 14 Vic. cap. 63, sec. 2.)

2. Decrees or orders of the Court of Chancery, ordering the payment of money.—(20 Vic. cap. 56, sec. 10.)

3. Judgments (*Qu.*, also decrees and orders of the Equity side) of any County Court.—(19 & 20 Vic. cap. 90, sec. 7.)

4. Judgments of Division Courts, for sums above £10, to be obtained after fourteen days from the day of giving judgment.—(13 & 14 Vic. cap. 53, sec. 58.) See *Doe dem. McIntosh v. McDonell*, 4 O. S. Rep. 195.

The remedies of judgment creditors, by which they may have execution against their debtors' interest in real estate, depend altogether on statutes, and are as follows :

1.—5 Geo. II. cap. 7, sec. 4.—Houses, lands, negroes, (slavery being prohibited by 33 Geo. III. cap. 7, this term is inapplicable in Upper Canada), and other hereditaments and real estate, shall be liable to the debts of their owners, in the like manner as real estate is by the law of England liable to the satisfaction of debts due by bond or specialty, and shall be subject to the like remedies, proceedings and processes, in any court of law or equity, as personal estate, for the satisfaction of debts. By the act 43 Geo. III. cap. 1, it is provided that lands shall not be included in the same writ with goods and chattels, and that the writ against lands shall not issue until after the return of the writ against goods, and that the sheriff shall not sell the lands within less than twelve months from the day on which the writ is delivered to him. Under this statute it was held that lands were bound from the delivery of the writ to the sheriff (*Doe dem. McIntosh v. McDonell*, Trin. Term, 5 & 6 Wm. IV., and *Auldjo v. Hollister*, East. Term, 2 Vic.). A different rule now prevails, by virtue of the registry laws and decisions of the courts.

2.—9 Vic. cap. 35, s. 13.—On registering a certificate of judgment in the Registry office of the county wherein lands of the judgment debtor lie, such judgment shall affect and bind all the lands of such judgment debtor therein from the date of recording the same, *in like manner as the docketing of judgments in England affects and binds lands*, or, as the later statute (13 & 14 Vic. cap. 63, sec. 1) has it : in like manner as a judgment of any of her Majesty's superior courts at Westminster would, when duly docketed, have

bound lands before the practise of docketing had been discontinued in England. This latter was the interpretation given in 1849 to the 9 Vic. by the Court of Queen's Bench, in *Doe dem. Dougall v. Fanning* (8 U.C.Q.B. 166), where it was held that the mistaken reference to the docketing of judgments in England should be considered as a mere false illustration of what was plainly provided for before. The same rule was laid down in *Doe dem. Dempsey v. Boulton* (9 U. C. Q. B. 535).

3.—12 Vic. cap. 71, sec. 13.—Any estate, right, title or interest in lands, which (under 14 & 15 Vic. cap. 7, sec. 5) may be disposed of by deed—viz., a contingent, an executory, or a future interest, and a possibility coupled with an interest, in any tenements or hereditaments of any tenure, whether the object of the gift or limitation of such interest be or be not ascertained; also a right of entry, whether immediate or future, or whether vested or contingent, into or upon any tenements or hereditaments of any tenure—shall be bound by judgments of any Court of Record (and decrees or orders of the Court of Chancery), and shall be liable to seizure and sale under any writ of execution against the party entitled to the same, in like manner and on like conditions as lands of such party are now by law liable to seizure and sale under execution.

4.—12 Vic. cap. 73.—Under a *fi. fa.* lands, the sheriff may seize, sell and convey, in like manner as other real estate, all the legal and equitable estate and the equity of redemption of mortgagors; and by virtue of such sale the purchaser shall stand in the position of the mortgagor.

5.—13 & 14 Vic. cap. 63.—Every judgment entered up subsequent to the 1st January 1851 (and every decree or order for the payment of money), when registered in any county, shall affect and bind all the lands of the debtor in such county (as docketing), &c., and shall operate as a charge upon and shall affect all lands in such county, of or to which the debtor was, at the time of registering such judgment, or which, at any time afterwards, he became seized, possessed or entitled for any estate or inheritance whatever, at law or in equity, whether in possession, reversion, remainder or expectancy, or over which such debtor had, at the time of registering such judgment or at any time afterwards, any disposing power which he might without the assent of any other person exercise for his own benefit, and shall be binding upon such debtor, and against all persons claiming under him; and against the issue of his body, and all other persons whom he might without the assent of any other person cut off and debar from any remainder, reversion, or any other interest in or out of said lands; and every creditor so registering his judgment shall have such and the same remedies in a Court of Equity against the lands so charged, as he would be entitled to in