

terest and expenses and in contemplation and part discharge thereof, the said Thomas Thein (mortgagor) doth hereby *assign* to the said John Baker, (mortgagee) his executor, for all the said premises at the full and clear quarterly *rent* for each quarter, and to be recoverable by distress and sale, &c.;" but the mortgage also contained a power of immediate entry and sale in the event of default, the Court held that no notice to quit or demand of possession was necessary. It was in effect held that whatever might be the means of attainment, as the mortgage contained a clause for immediate entry in case of default, that the case came within the authority of *Doe Dem Garrod v. Olley*.

These are the leading cases, and so far as they go the law seems to be well settled. In England it is the practice of conveyancers to insert a distress clause in mortgages. The practice is not only sanctioned by long continued usage, but, as we have seen, by express judicial decisions.

How far the right of distress extends to goods and chattels of a stranger on the premises at the time of distress, we do not undertake to say. The question, so far as we can learn, is yet to be determined. (See *Freeman et al v. Edwards et al* 2 Ex. 732.)

JUDGE CAMPBELL.

It grieves us to notice the death of this able and much respected County Judge. He was not only one of the oldest, but most reliable of the County Court Judges. He always manifested a lively interest in the welfare of the *Law Journal*, and did much to promote its success. Often has he contributed to our columns, and, sad to relate, wrote to us on the day on which he breathed his last—little expecting that his career of usefulness was so near its end. He died at Niagara, on 18th January, 1860, aged 53 years, 10 months and 23 days. The deceased was a brother-in-law of Mr Justice Burns. We subjoin a short memoir of the lamented Judge taken from the *Niagara Mail*:—

The father of Judge Campbell, Donald Campbell, Esq., was a native of Islay, Argyshire, Scotland, who emigrated to the late Province of North Carolina, previous to the American revolution. He took up arms for the Royal cause, and entered as Ensign in the "North Carolina Volunteers"—his name is mentioned among the list of the U. E. Loyalists, published by Lorenzo Sabine, in Boston, 1847. In the North Carolina volunteers he served under Lord Cornwallis. He was then made Lieutenant in Sir John Wentworth's Nova Scotia Regiment, and from that was transferred to the 7th Regiment or Royal Fusiliers which was commanded by the late Duke of Kent, the father of Her present Majesty. From the Fusiliers he became Captain in the 5th Foot, and afterwards was made Fort Major, of Fort George, Niagara, which office he held for several years. He died on the 1st December, 1812, and his remains are interred in the south west bastion of Fort George.

Edward Clarke Campbell, the late lamented Judge, was the eldest son of Major Campbell, and was born at Niagara 26th February, 1806. After his father's death, Mrs. Campbell, his mother, removed with her family to Nova Scotia where her relations all lived. The late Judge was christened in Nova Scotia, and there received the name of Edward from his Royal Highness the Duke of Kent, who stood sponsor for him at his baptism. He received his education in the ancient College of Windsor, Nova Scotia. In 1824 he returned to his native town, Niagara, to enter upon the study of the law, and was articled in the office of the late Hon. Robert Dickson. He was called to the Bar Dec. 28, 1829. In 1832 he entered into partnership with Mr. Dickson, which continued until Mr. Dickson retired from business.

At the outbreak of the rebellion in 1837, he raised a fine company of volunteers, and proceeded to join the force assembled at Chippawa, and continued there doing military duty for some months. After that he was appointed Captain in the 1st Lincoln Militia, and became Major in 1849. In his military capacity, Judge Campbell manifested the same spirit of order, kindness, and punctual discharge of duty, that distinguished him in civil affairs.

In 1841, at the time of the Union, he was a candidate for Parliamentary honors, and was elected by a majority of one over the Hon. H. J. Boulton, to represent Niagara, in the first Union Parliament held at Kingston, where he sat during the first Session. At that Session, the Act creating the Division Courts in Upper Canada was passed, previously to which time the Judge of the County Court was the present Mr. Justice Burns, who resigned the Judgeship on the passage of that Act. Mr. Campbell, with the unanimous consent of his constituents, resigned his seat in Parliament, and accepted the office of District Judge, and was appointed December 23, 1841. His jurisdiction at first comprised the three present Counties of Lincoln, Welland, and Haldimand, subsequently, when the other Counties were separated for judicial purposes, he was Judge of Lincoln only.

In 1845 or 1846 he was elected Benchman of the Law Society. He was also one of the five judges appointed by the Act of 1853, to frame rules for the practice and proceedings of the Division Courts of Upper Canada. He devoted much time to this duty, and with Mr. Gowan, Judge of Simcoe, was instrumental in placing the transactions of these Courts upon the present satisfactory and efficient system.

Judge Campbell was a most active member of various societies. He filled the office of president of the Agricultural Society of the united Counties of Lincoln and Welland, and subsequently of the County of Lincoln for many years with rare zeal and efficiency. He was also president of the Niagara Electoral Division Society, Horticultural Society, and Mechanics Institute, which latter office he held almost from its establishment some 12 or 13 years ago. He was elected, last year, president of the Provincial Fruit-growers' Association, a Society particularly congenial to his favourite leisure pursuits, for, as a florist and agriculturist, Judge Campbell ranked among the very foremost in the country. The Provincial Association also enrolled him among its most active and intelligent directors, and his death will cause a sad blank in the meetings of that body.

Judge Campbell married the eldest daughter of the late Rev. John Burns of Niagara, and sister of the present Mr. Justice Burns. He leaves behind him a widow, and two sons, and three daughters.

The health of the Judge had, many of his friends thought, been declining for some time, still nothing to excite apprehension. He had been confined to his house some days in consequence of a severe cold, caught by sitting in his office, in the Court house, the room not been properly heated. This however was not the immediate cause of his death, which was the rupture of one of the arteries connected with the liver. There