who, until he receives payment, has recourse against all the securities available to him.

*W. F. O'Connor* and *H. O. Savary*, for applicant. *Roscoe*, K.C., contra.

## Province of Manitoba.

### COURT OF APPEAL.

Full Court.] CAMPBELL *v.* IMPERIAL LOAN CO. [June 8.

*Mortgagee—Redemption—Real Property Limitation Act, R.S.M. 1902, c. 100, s. 20—Constructive possession by mortgagee of vacant lands—Acknowledgment to prevent statutory bar—Acquiescence and laches—Condition in power of sale protecting purchasers—Exercise of power of sale by giving agreement.*

Appeal from judgment of MATHERS, J., noted vol. 43, p. 707, dismissed with costs, but not on the ground taken by the court below.

The action was for redemption of a mortgage in fee covering several parcels of land given by plaintiff's predecessor in title. The mortgage became in default, 1st January, 1892. The land was vacant and, by the terms of the mortgage, the mortgagor's right to possession ceased upon default, but the mortgagees had not taken actual possession. Under the power of sale in the mortgage, the company had, between 1899 and 1903 made sales of the different parcels to the several persons who had been made co-defendants in the action. The purchasers had only entered into agreements to purchase, but had paid portions of their purchase money, entered into possession and made improvements on the lands. The sales had been made without notice to the plaintiff, replying on the provision in the mortgage that "in default of payment for one month and ten days the said mortgagees may without any notice enter upon the said land and proceed under and exercise the power of sale or lease *hereinafter* conferred." There was no such power referred to *after* that provision, but the statutory power of sale under the Short Forms Act was contained in an *earlier* portion of the mortgage. The plaintiff allowed over ten years to elapse without making any payment