

gagee, but it is sufficient if the existence of the trust be communicated to the mortgagee by or through the mortgagor or purchaser; and it is worthy of consideration whether the existence of such trust would not be so communicated by the registration upon the lands of a conveyance reciting the facts."

We cannot but think that Mr. Marsh only meant to assert that he had contended for the direct liability of the purchaser notwithstanding the want of privity, which is certainly not a specially novel contention. But we see no trace of an argument in his article in favour of the direct privity of the purchaser with the mortgagee; and we may add, in justice to Mr. Galt, that until his paper reached us we had never met with the argument elsewhere.

THE SUPPOSED INCONSISTENCIES OF THE PRIVY COUNCIL.

It has been frequently alleged, but it appears to us on very insufficient grounds, that the Judicial Committee of the Privy Council have, in the construction of the British North America Act, in some instances, arrived at inconsistent conclusions. This has been reiterated in the columns of a contemporary until, no doubt, it is believed to be an almost incontrovertible proposition.

No court is infallible; no court, from the nature of things, can always be composed of the same individuals; and the Judicial Committee being thus both a fallible and a fluctuating body, it would not be very surprising if it were, indeed, a fact, that its decisions were found to be occasionally inconsistent. But when we come to examine some of the cases in which this inconsistency is said to appear, we find that it is not the Judicial Committee that is at fault, but its critics, who are unable to appreciate the reasoning whereby the Judicial Committee have reconciled their supposed conflicting decisions.

Two cases have been recently referred to as illustrating the alleged inconsistencies of the Privy Council, viz., *Russell v. The Queen*, 7 App. Cas. 829, and *Hodge v. The Queen*, 9 App. Cas. 117, and it is claimed that these decisions are irreconcilable. No court, however high, is, or ought to be, free from criticism. It is one of the privileges we enjoy, as a free people, that we are at liberty to canvass, criticize, and discuss the decisions of the