the mortgagee, and no payment of interest or principal to him, nor any acknowledgement of his title. Then in 1870—that is, after fourteen years—the mortgagee files a bill for foreclosure. He obtains a decree *nisi* in 1874, and a decree absolute in 1877. Then in 1878 he brings the present action, under that decree, to recover possession of the land. The appellants allege that the action is barred by the Statute of Limitations. Is this so? It was scarcely contended in the arguments of the appellants, and I do not think it could have been contended, that if instead of a legal mortgage the mortgagee had only an equitable mortgage or charge, and had within twenty years brought a suit of foreclosure and obtained a decree, he would not have been entitled to do so, and to hold and enforce that decree by every process which a Court of Equity could give. The Court is now not a Court of Law or a Court of Equity; it is a Court of complete jurisdiction; and if there were a variance between what, before the Judicature Act, a Court of Law and a Court of Equity would have done, the rule of the Court of Equity must now prevail. The argument of the appellant must therefore be that the possession of a legal mortgage, passing the legal estate as a pledge, put the mortgagee in a worse position than if he had not got it, and exposed him to the risk, as soon as twenty years from the date of the legal mortgage had expired, of forfeiture and losing the benefit of the suit and proceedings which he had in the meantime properly taken in the proper court to have himself adjudged, by reason of the mortgagor, the absolute owner of the land. This is an argument which appears to me to be as repugnant to reason as to justice; and I think, morover, that your Lordships could not admit it without acting in direct opposition to the spirit and principal of the case before Lord St. Leonards, of *Wrexon* v. *Vise*, 3 D. & War. 124, which has long been a governing authority on this subject. . . I must add, that if it were necessary I should have little doubt that the present action, being not an action of ejectment by a legal mortgagee to put himself in possession of land, which he is to hold as a pledge, subject to account and to all the infirmities of a mortgagee's title, but being an action by one who has become absolute owner of the land under a decree of the Court, is an action as to which the right to bring it must be taken to have accrued, within the meaning of sec. 2 of 3-4 Imp. Will. 4 c. 27 (R. S. O. c. 108, s. 4) of the date of that decree of the Court, and that sec. 3 (R. S. O. s. 5) of that Act, in defining when the right shall be deemed to have accrued, is not necessarily exhaustive or otherwise inconsistant with this view." Lords O'Hagan and Blackburn concurred, and thus the decision of the Court of Appeal (L. R. 6 Q. B. D. 345) was affirmed.

A. H. F. L.

## REPORTS.

### *ONTARIO.*

### DIVISIONAL COURT—CHANCERY DIVISION.

(Reported for the LAW JOURNAL.)

#### McTIERNAN v. FRAZER.

*Jurisdiction of Divisional Court—Appeal from order of Judge made in Court.*

A Divisional Court has no jurisdiction to entertain an appeal from an order of a judge, made in Court on motion, except by consent. *Re Galerno*, 46 Q. B. 379, followed.

[Sept. 7, 1882.—The Chancellor and Ferguson, J.

This cause had been set down to be heard before the Divisional Court by way of appeal from the order of PROUDFOOT, J., made in Court, on an appeal from the Master's report.

*J. Bethune*, Q.C., moved to strike the cause out of the list on the ground that the Divisional Court had no jurisdiction to entertain such an appeal. He referred to *Alford* v. *Ingram* before PROUDFOOT, J., 17th Oct. 1881, not reported. That was an application for leave to set the cause down to be heard before the Divisional Court by way of appeal from an order of a Judge, made in Court, or on appeal from a