the claimant should be entitled to hold her. After some months the judgment debtor obtained an accommodation note for $60 from the claimant upon the understanding that he was to hold the mare as security for the payment of the note as well as of the pasturage, and with the further express understanding that if the claimant should be called on to pay the note, the mare was to be his.

The distinction between a mortgage and a pledge of chattel property is well recognized: Ex p. Hubbard, 17 Q. B. D. 690; Hilton v. Tucker, 39 Ch. D. 669. The essential distinction is, that in a mortgage there is a transfer of the property, but not necessarily of the possession; in a pledge, the possession must pass, but there is no transfer of the property in the goods; if both the property and the possession pass, the transaction is a mortgage: Story's Eq. Jur., sec. 1030.

In this case there was no idea in the original transaction as to the pasturage that the property in the mare should pass, but only the possession, and the transaction with regard to the note did not involve any change in this respect. The stipulation as to the change of ownership in the event of default in payment of the note affords quite as strong an argument in favour of the view that the entire ownership was to remain in the judgment debtor meantime, as of any other deduction which might be drawn from it. The transactions between the judgment debtor and the claimant took place at a period sufficiently long before the judgment creditor's rights were brought into question, to do away with any suspicion of a lack of good faith. The Judge below was correct in holding the transaction to have been one of pledge.

Appeal dismissed with costs.

NOVEMBER 15TH, 1902.

DIVISIONAL COURT.

BIRNEY v. TORONTO MILK CO.

Company—Hiring of Manager—Company not Going into Operation—Absence of By-law or Contract under Seal—Claim for Payment for Services—Appointment of Director as Manager—Salary—Necessity for Confirmation by Shareholders.

Appeal by defendants from judgment of LOUNT, J., who tried the action without a jury at Toronto, in favour of plaintiff for $495 and costs, the amount claimed by plaintiff for salary as manager of defendants' business for the first 18 weeks. The defendants denied any contract binding upon them. The company never went into operation, but plaintiff alleged that he subscribed for $12,000 of the stock of the company