

REVIEWS.

patience to devote their spare time and energies to an attempt, however feeble it may be, to add to the general stock of knowledge, or to save the time and labour of their fellow workers. But we are beginning to wander from the subject in hand.

Mr. Leith commences this his first volume with the recent act to amend the law of property and trusts in Upper Canada. To the various sections are appended notes, explanatory of the defects sought to be remedied, a critical examination of the result, and as to whether the desired objects have been attained, and the present state of the law as affected by the provisions of the act.

The statutes relating to the transfer of real property next engage his attention, and the short and simple, but comprehensive explanations of the various clauses will be of great use to students, whilst many of the observations on Con. Stat., U. C., cap. 90, and the statutes which in the natural order of things follow it; the acts respecting short forms of conveyances, and short forms of leases, expose many mistakes which conveyancers have fallen into, and give valuable hints for future guidance. Our readers have already had the benefit of Mr. Leith's observations on the statutes respecting short forms of conveyances, as also the chapter in a subsequent part of the work on memorials as evidence.

The statutes governing the descent of freehold estates of inheritance come next, and are introduced by some observations on the common law rules of descent, thus enabling the reader better to appreciate the changes that have been made.

We have next the statutes respecting dower and the rights and conveyances of married women. As the learned author remarks in the preface:—

"The chapter on descent, and part of the chapter on dower are taken, with many alterations, from the work of the author on the commentaries of Blackstone adapted to the law of Upper Canada; a course justified by the alterations made, and the probability that that work will shortly be out of print"

There are some very valuable notes to the sections of the different acts which refer to the power of married women to acquire and dispose of their separate property, a subject always of much difficulty, and not by any means made clearer by the recent attempt to

give married women greater rights and privileges.

Next comes a short chapter on wills, and then the numerous statutes to make sale of and give title to real estates under writs of execution.

The next chapter is devoted to mortgages. In speaking of the late Act of 32 Vic., cap. 9, intended to "give certainty to the right of married women jointly with their husbands, to execute certificates of discharge of mortgage." He points out some of the difficulties which he thinks a statute, extended as an enabling statute are likely to lead to, thus:—

"Since the statute consolidated by Con. Stat. ch. 73, there can be but few cases wherein, when a married woman is entitled to mortgage moneys, she is not so entitled to her separate use under that statute. As far as the author is aware, it has not been usual in practice, on obtaining from a married woman a certificate of discharge of mortgage, to require compliance with Con. Stat. ch. 85: and neither where the woman is entitled to the moneys to her separate use, nor even in the few and exceptional cases wherein she is not, would such compliance appear to have been requisite. Under Con. Stat. ch. 73, she is to 'have, hold and enjoy,' free from the control and disposition of her husband as fully as if unmarried. She would be competent to receive, and give a receipt, as a *feme sole*, for her moneys, and the form of discharge given by the Registry Act is but a receipt in writing, though the Act gives it when registered, and not till then, the effect of a reconveyance. The receipt then works a reconveyance by operation of law, by force of the Registry Act; in itself it does not profess to convey. If the view of the author be correct, then the Act has considerably encroached on the rights given to a married woman by Con. Stat. ch. 73, and practically placed the obtaining of her mortgage moneys under the control of her husband."

We commend to the notice of solicitors engaged in the investment of money the remarks on fire insurance in connection with mortgages, also those with reference to powers of sale in mortgages. The statutory power can scarcely be said to be as perfect as it might be. It is a great pity that a provision which has been found of so much practical benefit, should be open to the criticisms even to which it is here subjected. Powers of sale are more and more used every day, and whether or not the form in the act respecting short forms of mortgages is defective (and it certainly is so in some re-