

## CHattel Mortgages—THE JUDICATURE ACT.

familiar with the subject) draws attention to the fact that at page 51 Mr. Barron "devotes considerable space to prove the right of a mortgagee to take possession of mortgaged goods at any time after execution and before default," and suggests that *Bingham v. Bettison* on this point should have been noticed. Beginning with *Porter v. Flintoff*, 6 C. P., ending with *Bunker v. Emmanly*, 28 C. P., (and with *Ruttan v. Beamish*, 10 C. P., *McAulay v. Allen*, 20 C. P., and *Samuel v. Colter*, 28 C. P., in the interim), the law in Ontario was settled to be as the author annotates it. It is a pity, as "M. I. G." remarks, that the late case of *Bingham v. Bettison* was not referred to in the work, but we have ascertained from a reference to dates that this could not have been expected. It is not clear, however, that this case does decide what "M. I. G." contends for. If we read the text correctly, the case went off on another point, and on the effect of no redemise clause. The Chief Justice of the Court of Common Pleas said: "We do not interfere with the decision in *Porter v. Flintoff*, as it has been followed by the two later cases referred to \* \* \* In any future case arising I am not prepared to say, *speaking for myself alone*, that I shall feel compelled to follow it." But, that this point has always been involved in considerable doubt, is shown by Mr. Barron at pp. 52, 53, and 54 of his work, where he quotes the dissentient judgments of Mr. Justice Gwynne, and gives the view, hitherto opposed to that of our Courts, held by many of the U. S. Courts.

On the question of the rights of subsequent purchasers our correspondent refers to the late case of *Hodgins v. Johnston*, 5 App. R. 449. A reference to p. 187 of Mr. Barron's book shows that the law there laid down is that set out in *Hodgins v. Johnston*, but theretofore undecided by any of our Courts, viz: "That the omission to refile a mortgage will not render it invalid as against a subsequent mortgagee with notice, or as against purchasers or mortgagees intermediate the original filing and the time prescribed for refileing." And

the American cases there cited settling this point, will, in the work, be found as referred to by Mr. Kerr, Q. C., in his argument in *Hodgins v. Johnston*.

A desire has been expressed by some that the Legislature should pass an entirely new act governing conveyances on chattel property, and we are not prepared to question the propriety of such being done, although beset with many difficulties. A careful study of the various decisions on the act we are speaking of will show how, owing to piecemeal legislation, it is in many respects inconsistent.

We have another letter referring to the same subject from Mr. Kehoe, which will be found among the correspondence.

We notice in the *Irish Law Times* a commendatory notice of Mr. Barron's book. The writer says, "We find the work satisfactory in a high degree, and on subjects relating to the general law common to this country, well worthy of collation with the text books familiar to practitioners here." We are not only glad that we have men in our profession who can write books worthy of commendation in the old country, where a strict criticism prevails, but that we have others in our midst who can intelligently and in a kindly spirit criticise them on points of doubt or difficulty.

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We understand that a meeting has recently been held by the Middlesex Law Association looking to relief from the inconvenience and expense of Toronto agency business. We will however await further details before discussing the views set forth at the meeting. But in the meantime we must express our belief that the new clauses in Mr. Mowat's amended bill will give all the benefit which outside practitioners can reasonably look for, and that they will fully satisfy (as we think they ought) the great body of the profession