

THE JURISDICTION OF DIVISION COURTS—CHATTEL MORTGAGES.

place only. This is abundantly proved by the concluding words of the section—"the jurisdiction shall be considered as established, &c., as if the said suit had been properly commenced, entered, or taken in such Court." If a case is entered for an amount beyond the jurisdiction of the Division Court, it is not *properly* entered, &c.

"The jurisdiction of *any* Division Court," in the beginning of the section, seems to point in the same way. It is not said "the jurisdiction of the Court," which possibly might have a broader application, but "*any* Division Court," that is, *one of many*, and having a reference to other Division Courts.

Sections 11 and 14, then, are the necessary complements, as it were, of section 10, the one providing for the case where objection to the jurisdiction was taken, the other for the case where no such objection was taken.

Section 11 refers to the transfer of a case (where objection *has been taken* to the jurisdiction), "which might *properly* have been *entered* in some other Division Court." If this case was for an amount in excess of the jurisdiction it could not "properly have been entered" in *any* Division Court.

Section 14, then, must clearly refer to proceedings in a case which might "*properly* have been entered" in any Division. The same reasoning holds good with both.

Mr. O'Brien in his Division Court Manual, 1880, arrived at the same conclusion as that now formally decided by Judge Ardagh. (See O'Brien's D. C. Manual, 1880, pp. 35, 36) In the course of his remarks on this section he says:

"A hasty glance at the words used in this section might lead to the supposition that the mere omission to give the notice spoken of in this section would establish and determine the jurisdiction to the court to the extent of the claim made, although that claim might be largely in excess of its jurisdiction.

This section does not refer to the question of amount at all, and there is only, if anything, an implication to countervail a precise, express and exact definition of the

general jurisdiction of these courts. It is much more reasonable to conclude that this section 14 refers only, as do those by which it is immediately surrounded, to the question of locality."

CHATTEL MORTGAGES.

In our November number we published, and again in this issue appears, a letter commenting on Mr. Barron's work on chattel mortgages. Criticism, when born of careful thought and study, is both useful and desirable, and this journal asks for and encourages such. As much good results from a good critic as from a good author; though the critic has great advantages over the author, and works on a different line. Care and prudence is particularly demanded when questioning an annotated work, for, if properly annotated, the fault (if any) will lie, not with the text of an author, but with the decisions of a court. And thus an annotated work (as we believe Mr. Barron's work only professes to be) disarms criticism, except to the extent that the same may be improperly annotated. Thus, for example, if "*Lex*" (*ante* vol. 16, p. 338), had read the cases referred to by Mr. Barron (which he said he had not) in support of the view "that registration of an assignment of a chattel mortgage was notice to the mortgagor," he would have had more difficulty in questioning the accuracy of that gentleman's work on this point. Whatever difference there may be between real and personal property in this respect, Mr. Barron has, in his support, no less an authority on the subject than Mr. Herman, who, at page 426 of his work, says: "an assignment of mortgage of personal property need not be recorded, but its registration is notice to the mortgagor." We are not prepared however at present to state any positive opinion on the subject.

Another correspondent, "M. I. G.," in our last number (and he writes as one who was