

not yet been done. The sole question, therefore, was whether this notice was "a step in the proceedings." Kekewich, J., held that it was not. R.S.O., c. 53, s. 38, requires the application to be made "after appearance and before statement of defence," and the question here decided could, therefore, hardly arise under the Ontario Act.

PARTITION—PARTIES TO ACTION BECOMING PURCHASERS—INTEREST ON PURCHASE MONEY.

In re Dracup, Field v. Dracup, (1894) 1 Ch. 59, was a partition action in which certain of the defendants had become purchasers, and had been allowed to set off their purchase money *pro tanto* against their shares; and for the purpose of distribution of the fund, it was held by North, J., that they were chargeable with interest at three per cent. on this purchase money so set off, as if it had been paid into court.

Notes and Selections.

LIABILITY FOR "NERVOUS SHOCK."—A clear and well-considered opinion on the subject of liability for physical injuries ensuing upon "nervous shock," or fright caused by negligence, is to be found in 25 N.Y. Suppl. 744 (*Mitchell v. Rochester St. Ry. Co.*, Circuit Court, Monroe County). The plaintiff, a married woman, was about to board one of the defendants' street-cars. A car on the opposite track was driven down the hill towards where the plaintiff stood with such speed that the driver could not check his horses until they had almost run into the plaintiff. She was not actually touched, but the fright and excitement of the occurrence produced unconsciousness. As a result of the shock, the plaintiff suffered a miscarriage, and was ill for a long time. Competent physicians testified that the shock was a sufficient cause for all the physical ailments which followed it. Upon the close of the plaintiff's testimony a nonsuit was granted by the trial court. The Circuit Court set this nonsuit aside, holding that "it would have been competent for the jury, upon the facts which appear, to conclude that the negligence of the defendant was the proximate cause of the injury which befell the plaintiff."

The decision is in accordance with the facts within every