

## PRACTICE OF CONVEYANCERS—LAW SOCIETY OF ONTARIO.

judge recurring to the same subject. "I think that the practice of conveyancers has settled a great deal of law. I put this case on the practice of conveyancers, and I am not sorry to have this opportunity of stating my opinion that great weight should be given to that practice."

Upon questions of title this practice has received very clear and express judicial and legislative sanction in the Province of Ontario. The Quieting Titles Act permits the court to receive and act upon any evidence which the practice of English conveyancers authorizes to be received on an investigation of title out of court (sec. 9). By the general orders in Chancery, the vendor is to afford the purchaser all the means of verifying the abstract in his power, in the manner and according to practice usual with conveyancers (G. O. 394).

One of the characteristic points of distinction between conveyancers, evidence and that ordinarily adduced in courts of justice is adverted to by Strong, V.C. in *Re Higgins*, 19 Gr. 310. "In weighing the sufficiency of evidence, the practice of conveyancers is more strict,—in determining the admissibility—more lax, than that of courts of justice." Another exception was commented on by Mowat V.C. in *Brady v. Walls*, 17 Gr. 700, as to the admissibility of affidavits in establishing questions of fact arising between vendor and purchaser. The Vice-Chancellor there adopts the language of Lee on Abstracts, where it is said that a purchaser may be often compelled to complete a contract upon evidence which would not enable him to recover the estate in an adverse suit against a hostile party in possession.

The Legislature of Ontario has sought to remove this anomaly to some extent by declaring that many pieces of evidence heretofore well recognized as satisfactory in the practice of the profession, as between vendor and purchaser, shall likewise be evidence in the litigated proceed-

ings at law against hostile parties in possession: 39 Vict. cap. 29, secs. 1, 7. The important question, as to the principle upon which the court will deal with evidence on summary applications, under this act to obtain the opinion of the court in respect to requisitions or objections (s. 3) recently arose before Vice-Chancellor Blake. He laid it down that the evidence sanctioned by conveyancers' practice, was sufficient, and that answers given upon matters of fact by means of statutory declarations, were in effect, evidence upon which the court would act in compelling the completion of a purchase. These declarations have now lost their voluntary character, and have now acquired the force of affidavits by virtue of the Dominion Statute, 37 Vict. c. 37. This was one of the objections commonly urged against the admissibility of these declarations as evidence: the other was that of their unsatisfactory character, because made to serve a purpose and *ex parte*. This is however a question of degree, and if the statements are by well-known persons, who are disinterested, and who have from their age and circumstances special means of knowing the facts, and if their statements are not only uncontradicted, but corroborated by other statements it was laid down that according to the fractions of conveyancers, the answers so made to the objections and requisitions were sufficient.

## LAW SOCIETY OF ONTARIO.

MICHAELMAS TERM, 1876.

The following is the *resumé* of the proceedings of the Benchers during this term, published by authority:

Monday, 20th November, 1876.

Hon. Stephen Richards, Q.C., was elected Chairman to preside in convocation, the death of the Hon. John Hill-yard Cameron, Q.C., having caused a