

LAW STUDENTS' DEPARTMENT.

plication to discharge the protection order could be entertained in a probate action. His judgment is chiefly concerned with other points which arose in the case, but as to the form of the pleadings, and the effect of the Judicature Act in this respect, he observes, after reading the above section:—

"The present case, in my opinion, comes exactly within those terms" (*i.e.*, of the said section). "If this defendant had instituted a suit or proceeding for the purpose of setting aside this protection order, the action would have been against this same plaintiff as claiming under the alleged will of the wife; and this section says that what might have been asserted in that suit may be asserted by way of counter-claim in answer to the action of the plaintiff against the defendant.

"Now I should observe I am dealing with the pleadings as a whole. I think as a matter of refined argument it may be said that if the plea had stood by itself it would not be good, because I agree that while the protection order is subsisting it must be respected. But the counter-claim appears to me to be good, because by it the defendant asks specifically that the protection order be discharged, which is exactly the relief he would pray in the proceeding if they had been instituted in an independent suit."

[NOTE:—*Imp. J. Act*, 1873, *sec. 24, sub-s. 3* and *Ont. J. Act. sec. 16, sub-s. 4* are identical.]

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EXAMINATION FOR CALL.

Dart's Vendors and Purchasers—Walkem on Wills—Statutes.

After a bid had been made at an auction and the property knocked down by the auctioneer, and before any contract had been signed, the bidder withdrew his bid and refused to complete the sale. Can he be compelled to complete? Explain fully.

A. being desirous of purchasing certain property, and believing that the owner would more readily sell to C. than to himself, professes to act as the agent of C., but takes care

that a formal contract is made out in his own name. Will specific performance be decreed as against the owner? Give reasons for your answer.

What are the requisites of an agreement for the purchase of lands? Can letters to third parties suffice to bind the writer?

A. contracted to sell leaseholds to B., who paid part of the purchase money and then deposited with his bankers the contract, accompanied by a memorandum in which he agreed to assign to them the leasehold premises by way of mortgage. The bankers gave notice to A. of this agreement, who, notwithstanding, conveyed to B. Is A. liable for any loss sustained by the bankers? Give reasons for your opinion.

In a lease from A. to B. the latter is given a right to purchase the premises at the end of a period which does not arrive until after the death of A. At the time named B. purchases the property. By his will, executed prior to the lease, A. had devised the property to X. Who is entitled to the purchase money paid by B., and to the rents which accrued prior to the purchase? Is there any statutory enactment which may affect the question?

What are the usual means of proving intestacy in showing title as between vendor and purchaser? Have we any statute which renders such evidence less necessary than formerly in many cases? Explain.

Is there any presumption in matters of title arising from age or sex that one of two persons who perished in the same catastrophe survived the other? Explain how the law operates in such case.

A will is executed in the presence of three witnesses, one being the wife of a legatee, the second a creditor, and the third an executor. Is the will valid? Explain fully.

A testator by his will devised, (1) to B. an estate tail in Blackacre; (2) to C. (his son) \$1,000; and (3) to D. (his nephew), \$500. B., C., and D. died before the testator. Who are entitled to the benefits mentioned? Explain fully.

What must be proved in order to establish the defence of purchaser for valuable consideration without notice?