

sion so as to entitle him to distrain for a breach thereof.

*Douglas, Q.C.*, for the plaintiff.

*Aylesworth, Q.C.*, for the defendant.

[Nov. 20.]

RE MCPHERSON *v.* MCPHEE.

*Prohibition—Division Court—Judge reserving judgment without naming hour—R.S.O., c. 51, s. 144—Prejudice—Waiver.*

Decision of *STREET, J.*, ante p. 444, 21 O.R. 280, affirmed on appeal.

*Douglas Armour* for the plaintiff.

*M. Wilkins* for the defendant.

THOMPSON *v.* CLARKSON.

*Assignments and preferences—Inspector of insolvent estate—Purchaser of estate from assignee—R.S.O., c. 124.*

An inspector of an insolvent estate appointed by the creditors under R.S.O., c. 124, who acts towards the assignee in an advisory capacity, cannot become a purchaser of the estate.

*Semble, per ARMOUR, C.J.*, that a private sale by an assignee to an ordinary creditor would also be open to objection.

*Watson, Q.C.*, for the plaintiff.

*Delamere, Q.C.*, for the defendants Ray and Street.

*George Bell* for the defendant Clarkson.

### Chancery Division.

BOYD, C.]

[Sept. 3.]

RE THE ESSEX LAND AND TIMBER CO.  
TROUT'S CASE.

*Mortgage to secure endorsements—Winding-up proceedings—Petition—R.S.C., c. 120, s. 48—Jurisdiction—R.S.C., c. 129, s. 39—Relief by foreclosure or sale.*

A president of a company had taken a mortgage from the company to secure him on endorsements and had assigned it to the bank which made the advances; but on settlement by him with the bank for the amounts due had obtained a reassignment, and applied by petition, in winding-up proceedings, for an order to the liquidator to convey to him the equity of redemption in the mortgaged lands, as they were not worth the amount of his liability

*Held*, on the evidence, that there was no violation of s. 48, R.S.C., c. 120.

*Held*, also, that under R.S.C., c. 129, s. 39, there was jurisdiction in the court to make the order, and that it was a matter of convenience and discretion as to when an action would be directed or summary proceedings would be sanctioned, and the usual order for inclosure or sale was made.

*D. E. Thomson, Q.C.*, for the petitioner.

*E. D. Armour, and C. J. Holman*, for execution creditors.

*W. M. Douglas* for the liquidator.

BOYD, C.]

[Oct. 2.]

MURRAY ET AL. *v.* BLACK ET AL.

*Will—Devise—Products and services chargeable on land—Tender of, and refusal to accept—Compensation.*

A testator by his will devised his farm to his grandson, charged with the supply of certain products and personal services in favor of a daughter and a granddaughter.

On a disagreement between the parties, a tender of the products and services was made and refused, and an action was brought to have them declared a charge on the land and for a money compensation.

*Held*, on an appeal from a master, that the refusal of the products did not deprive the plaintiffs of the right to afterwards recover their value, but that no compensation should be allowed for the personal services proffered and refused.

*Laidlaw, Q.C.*, for the plaintiffs.

*H. Cassels* for the infant defendant.

*J. A. Macdonald* for the tenants.

BOYD, C.]

[Oct. 20.]

DAME *v.* SLATER ET AL.

*Husband and wife—Wife's separate estate—Agreement to charge—"Sole"—"Separate."*

A husband agreed to sell certain land, and his wife, who was married to him in 1866 without any marriage settlement and had acquired property in 1870, under a deed to her, her heirs and assigns, "to and for her and their sole and only use forever," joined in the agreement for the purpose of securing its being carried out and charged her land to the extent of \$1,000.

*Held*, that in such a conveyance the word "sole" may or not mean "separate," according