

C 35902

Law School.

MAY EXAMINATIONS: 1897.

SECOND YEAR.

PRACTICE.

HONOURS.

Examiner: R. E. KINGSFORD.

1. When will damages be granted by the Court in lieu of an injunction?

2. The first mortgagees of a property in 1878 sold it under their power of sale. The purchase money was received by their solicitor, who was also solicitor for the mortgagor and was himself third mortgagee of the property. The amount due to the first mortgagees was paid to them by the solicitor—the balance he retained in his own hands and for a time paid the interest to the second mortgagees, who were not aware of the sale; but ultimately became bankrupt when his fraud came to light. The second mortgagees then take proceedings against the first mortgagees, claiming that they were trustees of the surplus after satisfying their own mortgage. The defence is the Statute of Limitations. Can it succeed? Give reasons and show when, if ever, such a defence by a trustee is good against the *cestui que trust*.

3. You are consulted by the defendant in an alimony action who has been served with a writ claiming interim alimony at the rate of \$50 a month. What courses are open to defendant in regard to this claim, and what steps must be taken by plaintiff in view of any action taken by defendant?

4. State briefly the procedure to be adopted in order to obtain a declaration of lunacy and the appointment of a committee—the supposed lunatic being resident in his own house. The answer to include actual appointment of committee.

5. State the jurisdiction of a county court judge in regard to (a) granting and (b) continuing an interlocutory injunction.

6. A receiver is appointed in an action at the suit of a second mortgagee to take possession of certain chattel property of the mortgagor and to receive the rents and profits of the mortgaged premises. The chattel property is in the possession of X., who claims the same as owner by a title paramount to that of the mortgagor. Y., the first mortgagee, desires to collect the rents and profits of the realty. What are the rights and remedies of X. and Y. respectively?

7. State the proceedings necessary to be taken by a plaintiff in order to obtain discovery from a defendant corporation by way of examination, and discuss the right to use such examination at the trial of the action.

W. L. Mackenzie King Papers

Volume C 45