

MONTHLY REPERTORY—REVIEW—APPOINTMENTS TO OFFICE, &c.

before an examiner, of a witness called *ex parte* in order that his evidence may be used at the hearing of a cause, is to be deemed an affidavit, the examiner is not on that account bound to take down the answers to improper or irrelevant questions. He should not, however, refuse to take down answers, except when it is clearly evident that such answers could not possibly be evidence. 14 W. R. 888.

U. C. YARRINGTON v. LYON.

Insolvency—Pleading—Administration.

A voluntary assignment to an official assignee under the Insolvent Act of 1864 (sec. 2), is not valid unless accepted by the assignee.

Every material allegation in a bill should be positive; and an allegation that, so far as the plaintiffs know, an assignee had not accepted the assignment executed by an insolvent, was held insufficient.

An assignment by an administratrix, of a mortgage, part of the assets of the intestate, was held valid, though not therein stated to be executed as administratrix 12 U. C. Chan. Rep. 308.

U. S. MATHEWS v. BURYÆ.

Surplus moneys from sale of mortgaged land under foreclosure.

The surplus moneys arising on a sale of land under a mortgage foreclosure, stand in the place of the land, in respect to those having liens or vested rights therein, and the widow of the owner of the equity of redemption is entitled to dower in the surplus, as she was in the land before the sale.

Where the widow of a mortgagor is made a party defendant in a foreclosure suit, but omits to appear or assert her claim for dower, she is not barred of her action for her share of the surplus moneys by any order for their distribution made in the foreclosure suit.

Nor is she barred from bringing such an action against the person to whom the surplus moneys were assigned in the foreclosure suit by reason of her neglect or omission to assert her claim, on being made a party to a suit brought by that person, for the settlement and closing of his trust as assignee of the mortgagor. 5 Am. Law Reg. 570.

PROBATE.

Sir J. P. W. MYERS v. GIBSON. April 28.

Will—Attesting witnesses denying signatures—Evidence of attorney who was present and others proving its genuineness—Conflict of evidence.

Where two persons' names appeared as attesting witnesses to a will, and the attorney who drew the will, and who was present during its execution, swore that these persons had duly signed the will as attesting witnesses, and other persons who knew their handwriting swore that the writing was theirs, but they themselves, though admitting a striking resemblance between the signatures to the will and other signatures

of theirs produced, denied having signed the will, and swore that the signatures to it were forgeries.

The Court, being satisfied that the signatures were genuine, notwithstanding the denial of the witnesses, admitted the will to probate. 14 W. R. 901.

REVIEW.

THE UPPER CANADA LAW LIST. By J. Roddans, Law Stationer. Toronto: W. C. Chewett & Co.

A fifth edition of this useful little book has come to hand, and is a welcome addition to the "furniture" of a lawyer's office.

The alterations from time to time in the officers of courts, and the residences, agents, &c., of practising attorneys and solicitors, require some such chronicle as this, whilst at the same time it contains much other useful information in an accessible shape. The book is now so well known to the profession that further comment is unnecessary. In arrangement and appearance it is similar to the former editions.

APPOINTMENTS TO OFFICE.

NOTARY PUBLIC.

JAMES HOLDEN, of the Town of Whitby, Esquire, to be a Notary Public for Upper Canada.

MICHAEL JOSEPH MACNAMARA, of Nanapan, Esquire, Attorney-at-Law, to be a Notary Public for Upper Canada.

SMITH CORBYN BLANCHARD DEAN, of Millbrook, Esquire, Attorney-at-Law, to be a Notary Public for Upper Canada. (Gazetted July 7, 1866.)

JOHN C. McMULLEN, of Orilla, Esquire, to be a Notary Public for Upper Canada. (Gazetted July 14, 1866.)

SAMUEL GLYN McCAUGHEY, Esquire, Attorney-at-Law, to be a Notary Public for Upper Canada.

WILLIAM HARVIE, of the village of Caledonia, Esquire, to be a Notary Public for Upper Canada. (Gazetted July 28, 1866.)

CORONERS.

CARMEN MAGNES GOULD, Esquire, M. D., to be an Associate Coroner for the United Counties of Northumberland and Durham. (Gazetted July 7, 1866.)

LEVI J. WEATHERBY, of Dunnville, Esquire, to be an Associate Coroner for the County of Haldimand. (Gazetted July 14, 1866.)

DONALD McMILLAN, of the village of Alexandria, Esquire, to be an Associated Coroner for the United Counties of Stormont, Dundas and Glengarry. (Gazetted July 28, 1866.)

TO CORRESPONDENTS.

J. B. B., thanks. You are quite correct in your suggestion. "T. T." and "A SUBSCRIBER," under GENERAL CORRESPONDENCE.

Corrigenda.—On page 188, second column, for "sec. 6, sub-sec. 7," read "sec. 6, sub-sec. 17," and "recoverable with costs," for "recoverable without costs."