

the respondent had at the time of the marriage falsely sworn in an affidavit that the age of the petitioner was 18, and had represented that her father consented, whereas he was entirely ignorant of the marriage. Barnes, J., on the evidence granted the prayer of the petition. A similar decision was given by Proudfoot, J., 10 Nov., 1883, in *Burns v. Davidson*, and see *Lawless v. Chamberlain*, 18 O. R. 296.

PRESUMPTION OF DEATH.

In the goods of Robertson (1896) P. 8, Barnes, J., refused to grant administration to the estate of a brother of the applicant who in 1863 had emigrated to Australia, and who had corresponded regularly with his family up to 1870, since which time nothing had been heard of him, until advertisements should have been published requesting information as to the missing man.

MORTGAGE OF TRUST FUND—MORTGAGEE—SUBSEQUENT INCUMBRANCES.

In re Bell, Jeffery v. Sayles, (1896) 1 Ch. 1, involves a very simple question, and yet one which the Court of Appeal (Lord Halsbury, L. C., Smith and Rigby, L.JJ.) held that Kekewich, J., had incorrectly decided. The point was simply this: the plaintiffs were mortgagees of a trust fund which considerably exceeded the amount due to them; there were subsequent incumbrances on the fund. The plaintiffs claimed that the whole fund should be paid to them; the trustees were willing to pay over only so much of it to the plaintiffs as was sufficient to satisfy their debt. The plaintiffs then commenced the present proceedings to compel compliance with their demand. The Court of Appeal sustained the defendants' contention and dismissed the application.

PRACTICE—COUNTER CLAIM BY PARTY BROUGHT IN AS A DEFENDANT BY COUNTER CLAIM—ORD. XXI. R. R., 11, 12, 13, 14—(ONT. RULE 373).

In *Alcoy & Gandia Ry. v. Greenhill*, (1896) 1 Ch. 19, the Court of Appeal (Smith and Rigby, L.JJ.) have arrived at the same conclusion as was reached by the Q. B. Divisional Court in *General Electric Co. v. Victoria Electric Co.*, 16 P. R. 529, viz., that a person brought into an action as a defendant