

made, grounded on an affidavit which stated that the agent at present conducted the defendant's business of land agent, and had "*acted for the defendant in reference to the mortgage which was the subject matter of the suit*"—the application was refused.—*Passmore v. Nicolls*, 130.

WARRANT.

75. A warrant to the sheriff to commit a party is not irregular, though no return day is mentioned in it.—*Prentiss v. Brennan*, 497.

WITNESS,

Re-examination of.

76. Where the defendants' solicitor had omitted to ask a witness what had become of a deed mentioned by the witness in the course of his examination, in consequence of which the defendants would have been precluded from giving secondary evidence of the contents: permission to exhibit an interrogatory, to be settled by the examiner, to prove where the deed was, was given to the defendants after the cause had been put in the paper for hearing.—*Covert v. Bank of Upper Canada*, 566.

77. In a creditor's suit a witness had been examined in the master's office touching the claim of an alleged creditor, with a view to the claim being disallowed; after his examination had been concluded, the plaintiff stated on affidavit that since the examination he had learned that the witness could have deposed to the fact of the alleged creditor having admitted that his claim had been settled, and moved to be allowed to re-examine the witness on this point: the motion was refused with costs.—*Patterson v. Scott*, 582.

MISCELLANEOUS.

78. Where plaintiffs and defendants mutually leave particulars in

the dark, which it is necessary the court should be informed of, a reference on these points will be made to the master.—*Bethune v. Caulcutt*, 81.

79. Where it comes out in the course of a cause that the ancestor of one of the parties to the suit, who claims as heir-at-law, has in fact made a will, it is incumbent on the court to direct an enquiry on that point, although unnoticed in the pleadings.—*Chisholm v. Sheldon*, 108.

80. Where a plaintiff erroneously asserts title in one capacity, but it appears from the statements in the bill that he is entitled in another capacity, the court will give him the relief he seeks.—*Fisher v. Wilson*, 218.

PRETENDED TITLE.

Purchase of.

Where a solicitor of this court purchased a widow's right of dower *in all the lands of which her husband died seised during her coverture*, taking from her an assignment thereof, and a power of attorney to use her name in suing therefor, six years after the death of her husband, and several years after the purchase so made by him, filed a bill in the name of the widow, for the purpose of having dower assigned to her in a particular portion of her late husband's lands—not noticing the sale to himself: the court, on the application of the widow, ordered the bill to be taken off the files, with costs to be paid by the solicitor.—*Meyers v. Lake*, 305.

PRIORITY.

Priority may be gained by means of prior registration, as between equitable incumbrances, but this priority will be defeated by notice.—*Bethune v. Caulcutt*, 81.

See also "*Mortgage*," 5.