One of these rules provides as follows: "The fees to be taken by attorneys and barristers respectively, practising in the Surrogate Court, in respect to business under the said Act, or under any Act of the Parliament of Upper Canada, or of this Province, giving power or jurisdiction to the said Courts or the Judges thereof, shall be the same as nearly as the nature of the case will allow as are now payable in suits and proceedings in the County Courts." Upon the appeal in *Re Osler*, the above rule was brought under the notice of Vice-Chancellor Proudfoot, who held that it was still in force and applicable to the case before him. His Lordship held that as the Judges had subsequently only drawn up rules applicable to non-contentious cases, and had not made provision for the costs in contentious cases, no full body of rules had been settled, and that this provisional regulation was still operative and determined the scale to be allowed in contentious matters as that of the County Court. Solicitors therefore will do well to delete the reports of the above judgments and make a reference to this recently discovered order, which gives a *quietus* to all elaborate disquisitions on the meaning of the meaning of the word "*Practice*" as used in the Surrogate Courts Act.

THE LAW OF DOWER.

(*Continued from page* 155.)

Since writing the former article on this subject the case of *Re Robertson* has been reported in 24 Gr. 442. The decision proceeds upon this, that where the widow has barred her dower in her husband's land, which is being mortgaged to secure the husband's debt, and that land is sold to realize the security after the death of the husband, then the widow is entitled as against creditors to dower out of any surplus proceeds of the land, computed on the whole value of the mortgaged lands. This, the most recent case in Ontario, is quite in accord with the last English decision on an analogous point by Bacon, V.C., the report of which in *Dawson* v. *Bank of Whitehaven*, L. R. 4 Ch. Div. 639, reached this country after *Re Robertson* was decided. On this head of dower, it may be taken that the authorities have settled the law conclusively.

Perhaps no part of the law of dower requires more elucidation and demands greater study than that which involves the doctrine of election. The foundation of the doctrine is that the widow shall not be allowed to claim under any testamentary instrument without giving full effect to it in every respect, so far as her rights are concerned. Where a benefit is given to her, expressly in lieu of dower by a will disposing of all testator's property, she must elect whether she will take that under the will and relinquish her dower, or retain her dower and abandon her rights under the will. But where a testator gave his wife an annuity "in lieu of all dower, etc.," and his personal estate was not disposed of, it was held that she was not precluded from participating in such personalty as one of the next of kin: *Taverner* v. *Grindley*, 32 L. T. N.S. 429. With this accords the judgment of Strong, V.C., in *Davidson* v. *Boomer*, 18 Gr. 479, where he says, "the widow as one of the persons to whom the Statute of Distributions gives the personal estate in the case of a failure of a gift of personalty, takes both the annuity and her statutory share, as the testator is only to be considered as purchasing the thirds for the benefit of his legatees. But in cases of realty, the testator is deemed to have purchased the dower for the benefit of whomsoever the estate may go to, whether it passes under the will, or part of it, through the invalidity of the will, devolves upon the heirs."