

Chan.]

NOTES OF CASES.

[Chan.]

Spragge, C.]

[March 12.]

RE JARVIS, Vendor v. COOK, Purchaser.

Sale under power by mortgagee, trustee or assignee in insolvency—Advertising sale—Notice—Statute of Limitations—Payment of taxes.

The rule of law which requires a mortgagee selling under a power of sale in his mortgage to observe the terms of the power of sale, is also applicable to sales by a trustee or quasi-trustee acting under a power:—the power must be followed; and the rule applies with equal force to sales by an assignee of an insolvent estate, who in such cases acts under a statutory power.

An assignee proceeded to sell the lands of the insolvent without giving notice of such intended sale "for a period of two months" as prescribed by the Act, without obtaining the sanction of the creditors thereto.

Held, a good objection to the title by a purchaser from the vendee of the assignee in insolvency.

Where a vendor was not in possession of lands, the fact that for upwards of ten years he has paid the taxes on the property is not such a possession as is requisite to bar the right of the owner under the Statute of Limitations.

MacLennan, Q.C., for vendor.

Rose, for purchaser.

Spragge, C.]

[March 19.]

GILLAM v. GILLAM.

Dower—Election—Ignorantia juris, &c

The testator made a provision in favor of his widow, much more advantageous to her than her interest as dowress, and which was expressly given in lieu of dower, and given during widowhood. The will was acted upon for two years, when the widow married a brother of her deceased husband, and thereupon filed a bill alleging that she had accepted the provisions and bequests made for and given to her by the will in ignorance of her right to dower, had she elected to take dower; and in her evidence she swore that she had been ignorant of such right until advised in respect thereof in 1880,

shortly before her second marriage, and now sought to have dower assigned to her.

Held, that the rule "*Ignorantia juris neminem excusat*" applied, and the bill was dismissed with costs.

Boyd, Q. C., for plaintiff.

Moss, for defendant.

Spragge, C.]

[March 19.]

REID v. REID.

Dower—Tenant for life—Interest—Principal.

The general rule is that as between a tenant for life and the remainderman in respect of a charge upon an estate, that the tenant for life is bound to keep down the interest on such charge, and the duty of the remainderman is to pay the principal. This rule was applied where a widow claimed to have dower out of her husband's estate, which at the time of her marriage was subject to certain legacies and a mortgage, in preference to an annuity given her by his will; she being held bound to pay one-third of the interest on these claims until they became payable, after which the remainderman must pay all the interest as well as the principal thereof.

Boyd, Q.C., and *Totten* for plaintiff.

Ball, Q.C., for defendant.

CHANCERY CHAMBERS.

Blake, V. C.]

[Sept. 3, 1875.]

RE MORSE.

Quieting Titles' Act—Vesting order—Entireties—Husband and wife.

Where a petition, under the Quieting Titles Act, derived title through a vesting order made upon a sale under a decree in an administration suit,

Held, under *Gunn v. Doble*, 15 Gr. 655; that in the absence of proof to the contrary, the order should be assumed to be regular.

Where a deed in a chain of title had been made to a husband and wife as joint tenants.

Held, following *Shaver v. Hart*, 31 U. C. R.,