JACKSON V. ROBERTSON.

Amendment.

The plaintiff will be allowed to amend his bill after replication without alleging the truth of the proposed amendment, even when the defendant on her examination denied its truth.

[June 27.—MR. STEPHENS].

This was an application by the plaintiff to amend his bill after replication filed. The bill was filed for the specific performance of an alleged agreement by husband and wife for sale of the wife's lands. The wife in her answer denied having signed any such agreement, and, on her examination, denied having given her husband any authority to sell the property in question. It was sought to amend the bill by alleging that the husband had signed the agreement as agent for his wife and by her authority.

Hoyles for defendant, contended that the truth of the proposed amendment should be alleged in plaintiff's affidavit.

Watson for plaintiff. The amendment raises a question of law to be determined on the facts.

The REFEREE granted the order on payment of costs.

CORRESPONDENCE.

Defective Registration.

TORONTO, July 28th, 1877.

TO THE EDITOR OF THE LAW JOURNAL:

SIR,—In your issue for this month you mention as the first item of legal intelligence that the Supreme Court of Illinois has lately held that the rights of a mortgagee, whose mortgage has been recorded in the books of registry are not affected by the fact that the mortgage had not been duly indexed, referring to *Mutual Life Ins. Co.* v. *Duke*, 4 Cent. L. J. 340.

You need not go so far for a decision on the point. If you refer to *Lowrie* v. *Rathburn*, 38 U.C. Q.B. 255, you will find the point similarly decided by the Court of Queen's Bench in this Province. Although the case was reversed on another ground—a question of evidence—this point is unaffected, and the case remains a decision on such point.

A CONSTANT READER.

The Law of Dower.

TO THE EDITOR OF THE LAW JOURNAL:

Having perused your valuable remarks in the *Law Journal* of June under the caption of "Law of Dower," I examined to some extent the question whether a widow has any *estate* in lands of her deceased husband out of which she is entitled to Dower before assignment thereof; and I venture with some diffidence to submit the result of my researches.

I venture to think that your conclusion "that it cannot be said that the law on this point is settled," is rather a hasty one. I admit that at first blush the cases do seem to conflict with one another; and that the element of uncertainty does seem to prevail; but upon closer inspection this uncertainty, in a great measure, disappears. One is very apt, from a superficial glance at *Acre* v. *Livingstone*, 26 U. C. Q. B. 282, to carry away the erroneous idea, that the Court was divided on this question. Reasoning from these premises, namely, the supposition that there are conflicting opinions of two very learned and eminent members of the bench on the same point, the conclusion would be correct that the law is unsettled and in an unsatisfactory condition. But, upon a more critical perusal of the case, it will be found, as I shall endeavour to show, that the premises are false; that not only did their Lordships not differ on this question, but that the very foundation of the strong and able dissenting judgment of Hagarty, J., is the assumption that there is no estate in the widow, founded upon or arising out of her right to dower; wherein he agrees with the other members of the Court.

The opinion of such a learned and eminent Judge as the present Mr. Justice Strong, who, when Vice-Chancellor of the Court of Chancery, is reported in *Collyer* v. *Shaw*, 19 Gr. 599, as disavowing his concurrence with the "majority