

739, an officer of the plaintiffs swore that the married woman was made a party to the note because he, the deponent, was informed by her husband and believed, and had no doubt, that she had separate estate of her own, and that there was no doubt, so far as she was concerned, that she contracted with respect to her separate estate when she endorsed the note.

The note was made and matured and all the material facts occurred before the passing of the Married Women's Property Act, 1884.

Held, following *Moore v. Jackson*, ante p. 409, that the plaintiffs were bound to prove the existence of some separate property at the time of entering into the alleged contract, and that this was not shown by the affidavit; and the motion for judgment was refused.

John King for the plaintiffs.

J. M. Clark for the defendants.

GALT, C.J.]

[Oct. 17.]

PETERS v. STONESS.

Rules of court—Construction—Heading—Rules 5, 1008—Summary order for sale of equitable interest in land—Reference.

Rule 5 of the Consolidated Rules provides that "The division of these rules into chapters, titles, and headings is for convenience only, and is not to affect their construction."

Held, that Rule 1,008, notwithstanding the heading "Summary Inquiries into Fraudulent Conveyances" is not limited to cases of equitable interests arising from fraudulent conveyances, but applies to a case where a judgment creditor is seeking to make available the interest of his debtor under an agreement for the purchase of land.

A reference was directed to ascertain what interest the debtor had in the land in question.

Wood v. Hurl, 28 Gr. 146, not followed, owing to the change in the law by Rule 5.

Langton for the judgment creditors.

W. M. Douglas for the judgment debtor.

STREET, J.]

[Oct. 19.]

IN RE SHIBLEY AND THE NAPANEE, TAMBURTON, AND QUEBEC R.W. CO.

Costs—Railway company—Application for warrant of possession—51 Vict., c. 29, s. 165.

Where a railway company, having a right to appropriate land, obtains under s. 163 of the

Railway Act, 51 Vict., c. 29, a warrant for immediate possession, and the amount subsequently awarded to the land-owner is not more than he was previously offered by the company as compensation, the costs of the application for the warrant should, under s. 165, be paid by the land-owner.

Delamere for land-owner.

Aylesworth for company.

Appointments to Office.

COUNTY JUDGES.

Prescott and Russell.

P. O'Brian, of L'Original, to be Judge of the County Court of the united Counties of Prescott and Russell, and also to be a Local Judge of the High Court of Justice for Ontario.

Prince Edward.

E. Merrill, of Picton, to be Judge of the County Court of the County of Prince Edward, and also to be a Local Judge of the High Court of Justice for Ontario, *vice* R. P. Jellett.

LOCAL JUDGE H.C.J.

Grey.

S. G. Lane, Judge of the County Court of the County of Grey, to be a Local Judge of the High Court of Justice for Ontario.

POLICE MAGISTRATE.

Muskoka and Parry Sound.

W. H. Spencer, of Monck, to be Police Magistrate for the District of Muskoka; save the town of Bracksbridge and the Townships of Macaulay and Draper, and also for certain portions of the District of Parry Sound.

CORONERS.

Lanark.

F. McEwen, M.D., of Carleton Place, to be an Associate-Coroner for the County of Lanark.

Lambton.

D. McEdwards, M.D., of Thedford, to be an Associate-Coroner for the County of Lambton, *vice* T. Ovens, M.D., removed from the locality.