REVIEW OF RECENT DECISIONS

*LIENS.—UNRECORDED, FOR THE NON-PAYMENT OF FEDERAL TAXES. (with reference to United States v. Curry, 201 Fed. 371.)

However in 1913, within a few months after United States v. Curry, supra, was decided. Congress passed a law which abrogated this rule and provided that the Government's lien would only be good as against purchasers and mortgagees without notice from the delinquent taxpayer when notice thereof was filed in the United States District Clerk's Office, and also in the Recorder's Office of the county where the land affected by the lien was situated, provided such recording was authorized by State laws. Act. of Congress, March 4, 1913, Sec. 166.—Ed.

*Omitted on page 140, St. Louis Law Review, February 1922.

TELEPHONE AFFIDAVIT—VALID OR VOID?

Sec. 7955 R. S. Mo. 1919, provides that, "No action shall be maintained against any city of the first class on account of any injuries growing out of any defect in the condition of any bridge, boulevard, street, sidewalk, or thoroughfare in said city, unless notice shall first have been given in writing, verified by affidavit, to the mayor of said city within sixty days of the occurence for which damage is claimed, stating the place where, the time when, such injury was received, and the character and circumstances of the injury, and that the person so injured will claim damages therefor from such city." An interesting case involving this statute is Kuhn v. City of St. Joseph, 234 S. W. 353. (Mo.) The facts of the case show that the injured party gave notice as required by the above cited statute but that the affidavit verifying said notice was taken over the telephone. The question arose as to the validity of this affidavit. In deciding this case the Kansas City Court of Appeals held that in the absence of any showing of fraud or mistake in connection therewith the claimant's affidavit was not rendered void by virtue of fact that it was taken over the telephone. There seems, however, to be some difference of opinion upon this point. In the case of In Re Napolis, 169 App. Div. (N. Y.) 469, occurs the statement, "The court again wishes to express its condemnation of the acts of notaries taking acknowledgement or affidavits without the presence of the party whose acknowledgement is taken or the affiant, and that it will treat as serious professional misconduct the act of any notary thus violating his duty". The matter is perhaps most convincingly discussed in Carnes v. Carnes, 138 Ga. 1, in which the Court says: "In or-

der to make an affidavit there must be present the officer, the affiant, and the paper, and there must be something done which amounts to the administration of an oath. There must be some solemnity, not mere telephone talk. Telephonic affidavits are unknown to the law. A moment's thought will show a sound reason for this. An officer hears a voice coming thru the receiver of a telephone. For identification he must rely on recognition of the voice (if he knows it) and the statement of the person as to who he or she is. How does the notary know that the paper presented later is the identical paper sworn to? If this is an oath, when is it taken—when the telephone message is sent, or when the paper is later presented by the third person? Where is it taken—at the place where the affiant is, or that where the officer is? It will be seen that great confusion might arise from such a system."

ATTORNEY AND CLIENT—CONTINGENT FEE—DISMISSAL OF SUIT BY CLIENT.

Kellogg v. Winchell, 273 Fed. 745 (D. C.) The plaintiff directed his attorney, who was engaged upon a contingent fee, to dismiss an appeal from a judgment against him in the lower court.

It is well established that a client may dismiss his attorney at any time and without cause, although this attorney be employed on a contingent fee. Ronald v. Mutual Reserve Fund Life Assoc. 30 Fed. 228; Roake v. Palmer, 103 N. Y. S. 862; Joseph v. Lopp 78 S. W. 1119 (Ky.). But the courts will not permit such act of dismissal to deprive the attorney of renumeration for services rendered. There are three ways in case of contingent fees in which attorney may recover for services. (1) The Attorney may sue his client in contract. Kersey v. Gorton, 77 Mo, 645; Reynolds v. Clark 162 Mo. 680. The objectionable feature to this remedy is that it seems impossible to determine damages if this suit is not concluded.

(2) The agreement may be treated as a mere promise to pay a part of a claim when collected. Story v. Hull, 143 Ill., 506.

(3) This remedy is to allow the attorney a quantum meruit for the reasonable value of his services. Ibert v. Aetna Life Ins. Co., 213 Fed. 996 (D. C.). Jordan v. Davis 172 Mo. 599; Moore v. Robinson 92 Ill. 491; Philbrook v. Moxey 191 Mass. 33. And this appears to be the most reasonable and just course to follow.

DOWER—CREDITORS' RIGHTS BEFORE IT IS ASSIGNED.

The recent case of Clelland v. Clelland, 235 S. W. (Mo.) 816, was an action to have a widow's dower assigned in her husband's real estate, brought by a judgment creditor of the widow to satisfy his claim out of the portion so assigned. Sec. 347, R. S. Missouri 1919, provides that if dower has not