

MEREDITH, C.J.]

TREVELYAN ET AL. v. MYERS.

[April 1]

Foreign judgment—Merger—Right to sue on original cause of action.

The recovery of a foreign judgment upon a covenant is not a merger of the covenant or the right to sue thereon, and the covenantee may, notwithstanding the recovery of the foreign judgment, sue upon and recover judgment upon the covenant in an Ontario court.

Walter Cassels, Q.C., and W. H. Lockhart-Gordon for the plaintiffs.

A. Monro Grier and Orville M. Arnold for the defendant.

OSLER, J.A.,
Weekly Court, London.]

[April 13.]

TAYLOR v. REGIS.

Evidence—Corroboration—Two defendants in same interest—R.S.O., c. 61, s. 10—R.S.O., c. 1, s. 7, s.s. 24.

Where in an action by an executor of a deceased mortgagee against two mortgagors both the mortgagors deposed to certain payments made in the lifetime of the mortgagee, but which the plaintiff disputed,

Held, that the fact of both the mortgagors testifying to such payments did not constitute corroboration within the meaning of R.S.O., c. 61, s. 10.

Each mortgagor was an opposite or interested party in the same degree and of the same kind, and constituted together an opposite or interested party within the meaning of the section.

Elliott for the plaintiff.

Stewart for the defendant.

OSLER, J.A.
Weekly Court, London.]

[April 21.]

IN RE FLETCHER'S ESTATE.

Executors and administrators—Devolution of estates—Sale of infant's lands—R.S.O., c. 108, s. 8, s.s. 1—54 Vict., c. 18, s. 2 (O.).

The effect of 54 Vict., c. 18, s. 2 (O.), is to vest in executors and administrators, whether these are infants or not, the absolute discretion to sell the real estate for the purpose of paying the debts; and whether there are debts or not, for the purpose of the distribution of the estate among the persons beneficially entitled; provided that where infants are entitled, or where other heirs or devisees do not concur in the sale, and there are no debts, no such sale shall be valid as respects such infants or other heirs or devisees unless the sale is made with the approval of the official guardian. This amounts to an amendment of s. 8, s.s. 1, of the Devolution of Estates Act, R.S.O., c. 108, the approval of the official guardian being now required only in the case of a sale for the purpose of distribution simply, *i.e.*, where there are no debts, and where there also happen to be infants or non-concurring heirs or devisees.

Where, therefore, administrators in contracting to sell the lands in which infants were interested, under circumstances not requiring the consent of the