

husband had himself prepared and delivered the assignment to L. S. & Co. It also appeared that the wife subsequently to assigning to L. S. & Co. assigned the land and agreement to T. & Co., who, thereafter and before the commencement of the action, paid the balance due to the C.P.R. Co. and obtained a deed of the land. It was urged on behalf of the wife, relying on *Pike v. Fitzgibbon*, 17 Ch. Div. 454, that admitting the wife had separate estate at the time of the contract, she had since ceased to be possessed of any, and that there could not now be a judgment against her on the contract. For the plaintiff it was contended a judgment would bind not only the property she was possessed of or entitled to at the date of the note sued on, but also all or any property thereafter acquired by her, and in support of this contention plaintiff relied on *Wagner v. Jefferson*, 37 U.C.R. 577; *Moore v. Jackson*, 22 S.C.R. 239. Plaintiff's counsel also urged that the defendants having represented that the wife had an interest in the land and thereafter assigned that interest, they were estopped from setting up that it was not the wife's property.

*Held*, that there should be judgment against both defendants for full amount of claims and costs. That the interest of the wife in the land was separate estate. That the judgment as against her, following *Scott v. Morley*, 20 Q.B.D., should be a proprietary one and be limited to her separate estate. That the defendants having represented the land as the wife's property were estopped from now claiming it was not then her separate estate.

*Hamilton*, Q.C., for plaintiff. *H. A. Robson*, for defendants.

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SOUTHERN ALBERTA JUDICIAL DISTRICT.

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Rouleau, J.]

IN RE HANEY v. MEAD.

[March 24.]

*Coroner—Doctor who attended deceased not competent to hold inquest.*

This was an application of M. J. Haney, manager of construction of Crows Nest Railway for a writ of prohibition to prohibit Dr. H. R. Mead, of Pincher Creek, from further proceeding with an inquest in connection with the deaths of two men from diphtheria, employed by a contractor on the said railway. The grounds upon which the application was made were: 1. That the coroner had no jurisdiction to hold such inquest. 2. That he was a necessary and material witness upon said investigation and inquest. 3. That he was directly and personally interested in said inquest and investigation.

The facts as set out in the affidavits read on the application were that the two men in question were brought in the company's ambulance to the end of the track, and Dr. Mead, the said coroner, was immediately called in to attend them. Both men died the night after their arrival while under Mead's care. Mead then proceeded to hold an inquest upon the said deaths although it had been pointed out to him by counsel (C. E. D. Wood) for applicant that having been in professional attendance upon the men at the time of their death, he would be a necessary witness, and it was not proper for him to act in the dual capacity of judge and witness.

*Held*, that a coroner is a judge of a court of record, and that the same