upon the question of fact—a finding made conclusive by the evidence contained in a letter of the male plaintiff of the 9th October, 1903.

Then, as mortgagor only, it was contended that the male plaintiff had a right to redeem, or else his wife had a right to redeem, a part of the mortgaged lands, because the sale of them, under the prior mortgage, was invalid against the plaintiffs for want of notice to either of them of the mortgagee's intention to sell.

The evidence of actual service of the notice of sale was altogether circumstantial, but was quite sufficient to uphold the sale, in all the circumstances of the case. There was a qualified denial by the husband of the service upon him, but no denial by the wife of service upon her. In all the circumstances, the finding should have been, and should now be, that due service of the notice was effected upon the mortgagor: see Tanham v. Nicholson (1872), L.R. 5 H.L. 561; Doe d. Murphy v. Mulholland (1832), 2 O.S. 115; and Berard v. Bruneau (1915), 25 Man. R. 400.

Upon the question of the Limitations Act, the Chief Justice's opinion was in accord with that of the trial Judge; the male plaintiff's own testimony removed all doubt upon that question: see Kay v. Wilson (1877), 2 A.R. 133.

There could be no doubt, therefore, that the action was rightly dismissed as to the male plaintiff; and there was no good reason for thinking that it was not also rightly dismissed as to his co-plaintiff.

A copy of the Marentette mortgage being produced, it proved to be in the statutory short form; and under it service of notice of sale on the wife of the mortgagor is not required. The wife was a party to the mortgage, and barred her dower under its provisions, which gave the mortgagee power to sell after notice, to "the mortgagor, his heirs, executors, administrators, or assigns" only. No provision was made for notice to the wife.

Section 10 of the Dower Act, R.S.O. 1914 ch. 70, does not extend the wife's rights in that respect. Under it, the mortgagee's rights are to have full effect.

But the finding should be that the wife had due notice of the mortgagee's intention to exercise the power of sale.

The appeal should be dismissed.

HODGINS, J.A., concurred in dismissing the appeal. He was not able to agree that service of notice of exercising the power of sale as to the Newman property was properly proved by the evidence given. But, as the terms of the power were not shewn,