corporation as owners, but land within their territorial ambit over which they have municipal jurisdiction.

S. H. Blake, Q.C., and *Wm. Bell* for the plaintiffs.

Moss, Q.C., and *J. M. Gibson* for the defendants.

Div'l Ct.] [Oct. 19.

SCOTT *v.* STUART.

For sale—Patented lands advertised and sold as unpatented.

Certain lands were sold for taxes, and were described by the Treasurer in the advertisement and in the tax deed as unpatented, although as a matter of fact they were patented. It was shown in evidence that the effect of such a description was that lands would sell for a merely nominal price.

Held, affirming BOYD, C., that the sale was bad and the deed must be set aside.

J. C. Hamilton and *Thos. Dixon* for the plaintiffs.

Creasor, Q.C., for the defendants.

STREET, J.] [Oct. 19.

ALBRECHT *v.* BURKHOLDER.

Slander—Words applicable to class of two—Law of Slander Amendment Act, 1889—Right of action.

Action for slander under Law of Slander Amendment Act, 1889, for saying that he (the defendant) had heard one Brayley "had got one of the Albrecht girls (meaning the plaintiff) in trouble."

The plaintiff was one of four daughters of Ferdinand Albrecht, two of whom were mere children; and though the evidence showed that there were circumstances which might lead persons to think that the words referred to the plaintiff, yet it also showed that the person to whom they were actually spoken was not aware of these circumstances, and had no reason, therefore, to understand them as referring to the plaintiff.

Held, however, that either the plaintiff or her sister, being the only two of Albrecht's daughters to whom the words could apply, was entitled to maintain the action; but it was necessary for her to prove that the words were untrue of her sister, the other member of the class to which the hearer might have applied them, and having failed to do this here, the action must be dismissed.

Mackelcan, Q.C., for the plaintiff.

Osler, Q.C., for the defendant.

BOYD, C.] [Oct. 23.

DISHER *v.* CANADA PERMANENT L. & S. CO.

Hirereceipt—Lien for engine—Mortgage—Surplus—Part of dower—Second mortgagee.

Certain lands were subject to a first mortgage, a lien registered by the Waterous Engine Co. in respect to an engine supplied by them, and a second mortgage registered subsequently to the lien; and the lands having been sold, a contest arose in this action in respect to the surplus left after satisfaction of the first mortgage.

The Engine Company had sold the engine, and now claimed the balance of the price under the lien.

Held, that they were entitled to make that claim, but that having sold the engine without notice to the second mortgagee, the latter was entitled to impeach that sale by shewing that a greater sum could have been realized, if it had been properly sold after proper notice. But

Held, that the second mortgagee was alone entitled to the value of the interest of the wife of the owner of the equity of redemption in the land as inchoate doweress; inasmuch as she had barred her dower in his favour, whereas she had not signed the agreement with the Waterous Co. In the absence of arrangement the value of this interest must be ascertained and retained in court, to be paid out to the second mortgagee if the right of dower attached by the wife surviving her husband, and to the Waterous Company if it did not attach.

H. T. Beck for the plaintiff.

Hoyles for the Waterous Company.

Macdonell for the defendants.

Practice.

Court of Appeal.] [Nov. 12.

NIAGARA GRAPE CO. *v.* NELLIS.

Consolidation of actions—Staying actions—Identity of issues—Leave to appeal.

An order to consolidate, strictly so called, is a matter of discretion, and is made as a favour to and for the benefit of the defendants, the