sion if there was reasonable ground for supposing that the arbitrator was going wrong in point of law, even in a matter within his jurisdiction, does not affect the law as to setting aside awards laid down in *Dinn* v. *Blake*, and other cases, because the chief reason urged was that after the award was made there could be no relief against it.

Held, also, that no case was made out for remitting to the arbitrator on the ground of the discovery of fresh evidence, because the defendants were aware of the evidence of M. while the reference was proceeding, and did not ask for a commission or a postponement; and it was not shown that the evidence of B. could not have been obtained by reasonable diligence, and it was at any rate not such evidence as a new trial would be granted to obtain.

Robinson, Q.C., and *A. Ferguson*, for the defendants.

W. R. Meredith, Q.C., and *Delamere*, for the plaintiffs.

Chancery Division.

Robertson, J.] [Oct. 5, 1887.

MOORE *v.* ONTARIO INVESTMENT CO.

Corporation—Action for deceit—Demurrer.

Demurrer to a statement of claim in an action for deceit whereby the plaintiff was induced to purchase shares of stock in the defendants' company, and practically from the company, which were valueless, by reason of false and fraudulent statements in the annual report of the company, and in letters written to him by the president of the company, overruled with costs.

A corporation may be held liable in an action for deceit.

Shepley, for the demurrer.

Moss, Q.C., contra.

Boyd, C.] [Sept. 21, 1888.

MCLENNAN *v.* GRAY.

Mortgage—Bar of dower—Prior registration—Surety—Merger.

G., the owner of certain land, devised the land to his two sons, R. and J., charged with an annuity of $150 to his widow, and also with certain legacies to two other sons. After G.'s death, in March, 1879, R. and J. mortgaged the land to one C. This mortgage was not registered till January, 1880, though the widow knew of it. R. and J. then raised money from the plaintiff in November, 1879, by a mortgage, which was registered in the same month, the plaintiff having no knowledge of C.'s mortgage, and, therefore, gaining priority. In this mortgage to the plaintiff the widow joined, barring her dower and releasing her annuity for the benefit of the plaintiff. The plaintiff sold the land under his mortgage, and there was a surplus of $1,612, and the question was whether the widow as doweress and annuitant had priority over C.

Held, that she had, for the priority gained by the plaintiff over C. by means of his prior registration, enured to her benefit as surety. The fund, so to speak, out of which C.'s mortgage was to be primarily paid was increased by the act of the law based upon the default of the mortgagee first in point of time.

Held, further, that the fact that the widow had accepted a conveyance of a moiety of the land from R. did not cause her annuity to merge in whole or in part, the mortgage to C. intervening, and it, therefore, not being to her interest to hold that a merger had taken place. The question of interest governs merger in the absence of express intention.

Scott, Q.C., for mortgagee, C.

Boulton, for the widow.

Boyd, C.] [Sept. 22

Re CENTRAL BANK OF CANADA.

BAINES' CASES.

NASMITH'S CASE.

Banking Act—Payment of ten per cent. on subscription—Transfer of shares—Marginal transfer—Shareholders within month from suspension—Bank dealing in its own shares—R. S. C. c. 120, ss. 20, 29, 45, 77.

When ten per cent. was not paid at the time of original subscription of bank shares, not within thirty days thereafter, as required by the Banking Act, R. S. C. c. 120, s. 20, yet the ten per cent. was paid before the first transfer took place, and was accepted by the bank.