

Company, in which Sarah Morrison did not join to bar dower.  
J. Bicknell, K.C., for the plaintiff.

R. A. Bayly, London, for the defendant.

LOUNT, J., held that the plaintiff does not lose any rights or title acquired by his deed by reason of the fact that the mortgagees were deceived by the mortgagor's declaration to them that he was a widower. It was not a case of mistake on the part of the Agricultural Loan and Savings Company, and the facts do not come under the principle and reasoning in *Brown v. McLean*, 18 O. R. 533, and therefore the doctrine of subrogation cannot apply, and the doctrine of merger does not apply: *Armour on Real Property*, p. 235.

Morrison died on the 19th February, 1901; his widow Sarah Morrison is now living. The defendant has refused the plaintiff's demand that dower be set apart.

Judgment for the plaintiff. Reference directed to ascertain and settle dower, arrears of dower, and damages for detention of dower. Costs to the plaintiff; further directions and costs reserved. Thirty days' stay.

LOUNT, J.

AUGUST 13TH, 1902.

TRIAL.

### HAIGHT v. DANGERFIELD.

*Will—Construction of—Executors—Mortgage—Covenant for Payment—Possession.*

Action brought by the executors of Samuel Haight, deceased, against Arthur Eugene and Richard Dangerfield for sale and payment of the balance due on a certain mortgage, and for judgment against the mortgagors on their covenant, and for immediate possession, and for construction of the will of James Dangerfield, deceased, father of the mortgagors.

J. V. Teetzel, K.C., and G. C. Thomson, Hamilton, for plaintiffs.

W. H. Barnum, Dutton, for the adult defendants.

John Hoskin, K.C., for the infant defendants.

LOUNT, J., held, that the adult and infant defendants were improperly made parties. Action against them dismissed with costs. Costs of the infant defendants fixed at \$25. Question of title need not be considered at this stage, because a complete change through death might take place before the parties came before the Master. The plaintiffs, however, are entitled to judgment for immediate pos-