

*Held*, that, there was a binding parol contract of insurance for one year, which was not, under the circumstances, affected by the interim receipt.

The applicant at the time of his application for the insurance herein omitted to disclose an existing incumbrance on the property.

*Held*, that this had not the effect of vitiating the contract of insurance, for, under the statutory conditions and a variation thereof relating thereto, the fact to be disclosed must be one which is material to the risk, which was not the case here.

*Watson, K.C.*, for appellants. *Riddell, K.C.*, for respondents.

From Street, J.]

[Nov. 14, 1904.]

CROWDER-JONES v. SULLIVAN.

*Marriage—Contract in restraint of—Master and servant—Promissory note.*

In 1897, the plaintiff, who had been for several years, at \$8.00 a month, the housekeeper for R., a widower, with a young daughter and being engaged to be married, she, at R.'s request and on his promising, either to give her \$1,000 in cash, his promissory note for \$1,500, or to remember her in his will, agreed to give up the marriage, and to remain on with him, on the same wages, so long as he needed her. The plaintiff and R. at this time, were about 30 and 60 years respectively. In 1900, without any solicitation by the plaintiff, R. gave her his promissory note for \$1,500, payable with interest three years after date. He died in 1901. The wages had always been duly paid. In an action against the deceased's personal representatives to recover the amount of the promissory note,

*Held*, that, the plaintiff was entitled to recover, for that the agreement would not be treated as a contract in restraint of marriage.

Judgment of STREET J., at the trial, reversed.

*MacLennan, K. C.*, for appellants. *Clute, K.C.*, for respondents.

From Meredith, C.J.C.P.]

[Dec 16, 1904.]

KIRK v. CITY OF TORONTO.

*Municipal corporations—Dangerous machine on highway—Use by independent contractors—Precautions—Injury to passer-by—Liability of corporation and contractors.*

In a public and busy street of a city a horse became frightened by a steam roller engaged in repairing an intersecting street,