

is as follows: “. . . Him and I was talking about Orillia, and he said he had a notion of going up to Orillia, and he said, ‘If it suits me I am going to buy a place there, and I am going to buy it for your mother.’ . . .”

There is no contradiction by plaintiff of this, and though, upon being recalled, he is asked whether he has heard the evidence of his wife’s sons, he is asked nothing as to this conversation.

The trial Judge has found that he did so speak to these two witnesses.

The next proceeding is that plaintiff sees one Clark, a land agent at Orillia, about buying a house, and Clark says: “It was Mrs. Jarvis he seemed to want to suit.” “He said Mrs. Jarvis was to be suited.” And finally a house owned by one Sanderson is picked upon as suitable. Perhaps there is no great significance to be attached to the fact that when a man is buying a house it is his wife “he seems to want to suit,” and it is perhaps not at all unusual that a man intending to buy a house to be owned by himself does tell the agent that it is his wife who is “to be suited.” But what follows is, I think, quite different in its effect.

The deal is closed by Clark and plaintiff, \$50 is paid by plaintiff to Clark, and a receipt given by Clark; and the following occurred, according to Clark:—“When they were paying the \$50, or before they paid the \$50, Mrs. Jarvis spoke and said this house was to be hers, and he said, ‘Yes, the house is to be Mrs. Jarvis’s,’ and he gave me to understand it was to protect her as much as anything against his children, that his children and him had not been getting on very well, and it was to protect her in case of his death that she would have the property.” This is not denied by plaintiff, the trial Judge has not found against it, and it must be taken as established.

An arrangement is then made between Clark and plaintiff that Clark is to bring Sanderson down to the house of Thomas Langstaff that evening and close out the sale. A meeting is accordingly had, at which are present Clark, Sanderson, Thomas and George Langstaff, the plaintiff, and the defendant. The defendant was not called at the trial, her counsel saying (after the evidence of Clark, Sanderson, Thomas and George Langstaff, had been given): “The only other witness I have is Mrs. Jarvis, and I just mention it so that my