Held, that the evidence as set out in the case shewed that the defendant either verbally consented to the sale or acted in such a manner as would estop him from setting up the proviso and denying the property passing to the plaintiff.

Bunker v. *Emmany*, 28 C.P. 438, distinguished.

Held, also, that under the circumstances of the case, the plaintiff could only recover damages for the four days' detention, and not for the value of the horses in addition.

Read, Q.C., for the plaintiff.

Robertson, Q.C., for the defendant.

Sly v. Ottawa Agricultural Insurance Company.

Insurance—Variations of conditions not complying with statute—Value and age of building—Arbitration.

Action on a policy of insurance for $600 on a wooden building, alleging a total loss by fire. The policy contained the statutable conditions, and also what purported to be variations thereof, but without the statutory headings, by which the insured was stated to warrant the truth of the representations as to the value and age of the building, but all the conditions and variations were set out in the declaration. The plaintiff, in his application and proof papers, stated that the building was worth $900 and to be ten years old, while the jury found its value to be $300 and its age 19 years; but that plaintiff's statements as to value were not wilfully made. The defendants set up the breach of warranty, and also fraudulent misrepresentation, as to the value and age of the building. They also set up that by one of the conditions the value must be ascertained by arbitration.

The Court were dissatisfied with the finding of the jury as to the plaintiff's statement as to value not being wilfully made, but refused to give effect to the variations of the conditions, as not complying with the statute, and that even if sufficient whether they were not unreasonable, and that, even though their appearance on the record was the plaintiff's own fault, they would not deprive him of his objection to them, taken at nisi prius, and afterwards insisted upon in term.

The Court, under the circumstances, set the verdict aside: that, if defendants desired to try the question of fraudulent over-valuation, they might have a new trial without costs; but if they only desired to try the question of value, then there was to be an order of reference as required by the conditions.

Smythe (of Kingston) for the plaintiff.

J. K. Kerr, Q.C., for the defendants.

Morris v. Hoyle.

Master and servant—Will—Wages.

The plaintiff when an infant a few months old was taken by the defendant, his uncle, a farmer, who had no children of his own, to live on the farm, and he continued to live thereon until just before the commencement of this action, when he was 26 years old, having, but without any contract of hiring, always worked on the farm. When the plaintiff was 16 years old, the defendant led him to understand that he would leave him the farm by his will, and he subsequently made a will in plaintiff's favour. Afterwards they quarrelled, and defendant tore up the will and turned the plaintiff off the farm. The plaintiff then brought this action to recover the value of his services, during the three years after his attaining his majority, it appearing that he and defendant had during the last three years worked the farm on shares, and that during such period no claim was ever made for his services for the three years now sued for.

Held, that the relationship of master and servant never existed between the parties so as to entitle him to recover the value of his services during the period claimed for.

Osler, for the plaintiff.

Robinson, Q.C., for the defendant.

The Stadacona Insurance Company v. McKenzie.

Calls on stock—Computation of time.

Where calls on stock were to be made "at periods of not less than three months' interval," and one call was made payable on the 10th of August, and another on the 10th November.

Held, by the Court of Common Pleas, affirming the judgment of Galt, J., that the interval of three months had not elapsed between the two calls and that the second call was therefore bad.

H. J. Scott for the plaintiffs.

J. Crerar for the defendant.

Parsons v. Victoria Mutual Insurance Company.

Insurance—Further insurance—Setting up—Estoppel.

The plaintiff had been insured on his stock