

endorsing the cheque for \$200 and presenting and receiving payment of it, they were estopped from denying that it had been accepted upon the terms on which they had received it. That also was a question of fact, and the finding of the trial Judge was against the appellant.

The case was very near the line, the learned Chief Justice said, but he was not able to say that the findings were clearly erroneous.

GARROW and MACLAREN, JJ.A., concurred.

HODGINS, J.A., also concurred, giving a written opinion, in which he referred to sec. 16 of the Act and to *Mason v. Johnston* (1893), 20 A.R. 412; *Day v. McLea* (1889), 22 Q.B.D. 610.

MAGEE, J.A., dissented; reasons to be given later.

*Appeal dismissed.*

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NOVEMBER 9TH, 1915.

#### WELSH v. TORONTO POLICE BENEFIT FUND.

*Pension—Benefit Society—Toronto Police Force—Dismissal of Member—Board of Police Commissioners—Determination of Right by Committee of Society—Rules of Society—Right to Pension and Allowance.*

Appeal by the defendant society from the judgment of LENNOX, J., ante 2, declaring that the plaintiff was entitled to a pension and allowance out of the funds of the defendant society.

The appeal was heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A.

I. F. Hellmuth, K.C., and D. T. Symons, K.C., for the appellant society.

M. K. Cowan, K.C., and J. W. Pickup, for the plaintiff, respondent.

MEREDITH, C.J.O., who delivered the judgment of the Court, said that it was clear upon the evidence that the respondent was dismissed by the Board of Police Commissioners, and that his case was not that of a constable who voluntarily retired. The