

deed was. One of the sisters swore that certain payments were made to her by C. after her mother's death, but the evidence failed to establish that the rents as such were paid to her—it merely showed that they were made as a beneficiary under her father's will.

*Held*, reversing the decision of Proudfoot, V.C., that under the operative words of the deed a life estate merely passed, and that their effect could not be enlarged by the covenants, which were in the short form.

*Held also*, that although Equity has ample power to supply words of inheritance in a conveyance, no case was established for the reformation of the deed.

*Held also*, that even if C.'s evidence had been satisfactory, being that of one of the litigants and uncorroborated, it could not be made the foundation of a decree after C.'s death.

*Held also*, that the trust, if any, declared by the deed was an implied trust, and the Statute of Limitations was therefore a bar.

*Held also*, that inasmuch as the litigation was for the purpose of establishing the appellants' title, and as the claimants were brought into Court not of their own motion they should not be charged with any costs in this Court or the Court of Chancery.

*Bethune, Q.C.*, for the appellants.

*Murray and Spragge* for the respondents.

*Appeal allowed.*

Ottawa, and all goods for them, or in which they appeared interested, were, by arrangements with the defendants, sent on to Ottawa. This pork was accordingly sent on, and inspected by B. & Co., who refused to accept it. The plaintiff, who was fully aware of all that had occurred, and that the pork was then at Ottawa, swore that he demanded the pork from the defendants agent at Prescott, and, at the same time, requested him to try and get B. & Co. to accept it; but the evidence of the demand was vague, and seemed rather to be a demand that it should be brought back to Prescott: and an absolute refusal was not shewn. It further appeared that afterwards, and before this action was brought, the defendants offered the plaintiff his pork at Prescott.

*Held*, affirming the judgment of the Common Pleas, that the asportation of the pork to Ottawa did not constitute a conversion.

*Held*, also, that there was not sufficient proof of a demand and refusal to prove a conversion; but *semble* that even if such had been proved, an action of trover could not be maintained after the subsequent offer to give him the pork at Prescott.

*McMichael, Q.C.*, for the appellants.

*Becher, Q.C.* (with him *Street*) for the respondent.

*Appeal dismissed.*

From C. P.]

[Dec. 23, 1878.]

GAGHAN V. THE ST. LAWRENCE AND OTTAWA RAILWAY CO.

*Conversion of goods—Asportation.*

The plaintiff, at Guelph, sold to B. & Co., at Ottawa, 65 barrels of pork, and shipped it by the Great Western Railway Company, the shipping receipt acknowledging the receipt of the same, addressed to the plaintiff's order at Prescott, and to notify B. & Co. at Ottawa. The pork was carried by Great Western Railway and steamer Passport to Prescott, her manifest shewing a delivery there into the defendants' charge, and stating that the plaintiff was owner, and that B. & Co. were to be notified. B. & Co. were large dealers in

From Chy.]

[Dec. 23, 1878.]

WARSWICK V. CANADA FIRE AND MARINE INSURANCE CO.

*Fire insurance—Condition—Warranty.*

The plaintiff, who resided at a distance from a mill on which he held a mechanic's lien, applied to the agent of the defendants to effect an insurance thereon. One of the questions put to the applicant was, "Is a watch kept on the premises during the night? Is any other duty required of the watchman than watching for the safety of the premises? Is the building left alone at any time after the watchman goes off duty in the morning till he returns to his charge at night?" His answer thereto was, "The building is never left alone, there being always a watchman left in the build-