

and Lahey appealed therefrom, upon the grounds that the Judge's decision was wrong in law and in fact and that evidence was wrongly excluded.

The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.

O. H. King, for Lahey.

W. M. Douglas, K.C., for the company.

RIDDELL, J.:—The evidence, so far as admitted, shews that (Lahey being in possession of the property) at a meeting of the company the secretary called attention to the unsatisfactory condition of affairs, owing to there being no definite agreement with Lahey, whereupon a resolution was passed in the following terms: "Resolved to give the house and farm to Mr. Lahey rent free in consideration of his keeping the front trees cultivated and looked after; such arrangement, however, to be terminated at any time at the will of the directors." Lahey was present when the resolution was passed, and it was read over to him. Lahey swears that he said nothing, but was not allowed to explain why he said nothing. The president of the company, on the contrary, says: "He thanked the directors for appointing him, and told them that he would get out at any minute they asked him." This Lahey specifically denies.

It is rather indicated than proved that the property had been purchased by the company from Mrs. H. D., acting for herself, and, as Lahey asserted (at least) in part for him, he claiming a one-third interest. Counsel for Lahey stated to the County Court Judge—upon the Judge saying, "He can't dispute the landlord's title"—"He has no title over us—we are as much owner as he is." Whereupon the learned Judge said: "That doesn't make any difference. I suppose the law goes this far, that, if Mr. Hill is the owner of property, and he accepts a lease from you, although he may have an interest in the property, he can't dispute your title." And it is quite manifest that the County Court Judge proceeded on the assumption that there was an acceptance by Lahey of the provisions of the resolution already spoken of. If the learned Judge so found after hearing all the evidence properly admissible, no one could quarrel with his determination—but he seems to have reached his conclusions with the fact before him that Lahey swore that he stood silent when the resolution was read, and without an explanation being permitted of his silence.