

to be covered by authority, and in the answers I give as respects such questions I am stating what I understand to be the law as declared by the decisions of the Courts, or the effect of the preponderance of authority where there have been differences of opinion.

I am of opinion that the questions submitted should be answered as follows:—

1: in the affirmative.

2 (a): in the negative.

2 (b): in the negative.

3: the first branch in the negative, the second branch in the affirmative.

4: in the negative.

5: in the negative.

6: in the negative.

7 (a), (b), (c): upon the same ground and for reasons similar to those stated by my brother Maclellan, I must respectfully ask to be excused from making any further answer to these questions. To undertake to answer them would be to endeavour to give an exhaustive definition of "works of necessity," or to lay down a series of abstract propositions not having application to any particular case or set of circumstances, a thing dangerous to attempt, and, if attempted, likely to lead to embarrassing and possibly mischievous results when afterwards sought to be applied to actual cases.

And upon similar considerations, I beg leave to reserve the right to reconsider the answers I have given (except of course in regard to such as are already covered by binding authority), should they or any of them arise in course of actual litigation.

LISTER, J.A., died while the questions were under consideration.

APRIL 26TH, 1902.

DIVISIONAL COURT.

MUNRO v. TORONTO RAILWAY CO.

*Infant—Lease by—Repudiation—Partition—Amendment—Parties.*

Appeal by plaintiff from judgment of MEREDITH, C.J., dismissing the action with costs, the plaintiff having refused to amend, adding his co-lessors as parties, as allowed by the judgment noted *ante* p. 25. The same counsel appeared.