

## REPORTS AND NOTES OF CASES.

## Dominion of Canada.

## SUPREME COURT.

N.S.]

[March 11.]

SAINT MARY'S YOUNG MEN'S TOTAL ABSTINENCE SOC. v. ABLEC.

*Lease—Construction of covenant—Taxes—Partial exemption.*

A society owned a building worth about \$20,000 which, by the statute law of the province, was exempt from municipal taxation so long as it was used exclusively for the purposes of the society. A portion of the building having been used at intervals for other purposes, it was assessed at a valuation of \$1,000, and the society paid the taxes thereon for some years. Such portion was eventually leased for a term of years to be used for other purposes than those of the society, and the valuation for assessment was increased to \$10,000. The lease contained this covenant: "The said lessees . . . shall and will well and truly pay or cause to be paid any and all license fees, taxes or other rates or assessments which may be payable to the city of Halifax, or chargeable against the said premises by reason of the manner in which the same are used or occupied by the lessees hereafter, or which are chargeable or levied against any property belonging to the said lessees (the said lessor, however, hereby agreeing to continue to pay as heretofore all the regular and ordinary taxes, water rates and assessments levied upon or with respect to said premises, and the personal property thereon belonging to the lessor)." The society was obliged to pay the taxes on such increased valuation and brought action to recover the amount so paid from the lessees.

*Held*, FITZPATRICK, C.J., and ANGLIN, J., dissenting, that the taxes so paid were "regular and ordinary taxes" which the lessors had agreed to pay as theretofore and the lessees were not liable therefor on their covenant. Appeal dismissed with costs.

*O'Connor*, for appellants. *Newcombe*, K.C., for respondent.