

hold were held to have remained chattels. None of them is decisive of the present case.

This vault door is affixed, slightly it may be, to the land. It is not attached merely by its own weight. Therefore, the onus of shewing it to be a chattel and not a fixture rests upon the defendants. While the mode and degree of the annexation, because it is so slight and because the door can be removed without injury to itself or to the freehold, may not be inconsistent with its retaining the character of a chattel, can it be said that the object of the annexation was aught other than to render the vault (admittedly part of the freehold) serviceable to defendants as tenants of the shop for the purpose for which it was intended? . . .

[Reference to *Wake v. Hall*, 8 App. Cas. 195, 204.]

Here the mode and degree of annexation are at best inconclusive; the object of the annexation, on the other hand, "patent to all to see," was the improvement of the inheritance—the completion of the vault—at all events during the tenancy of defendants. This, I think, sufficed to make of the vault door a fixture, removable it may be as a tenant's fixture, but, while affixed to the freehold, part and parcel thereof, subject to any such right of removal.

Defendants have failed to discharge the onus of shewing that this door, annexed to and apparently part of the freehold, retained its chattel character. They did not preserve any right of removal which may originally have been incidental to it as a tenant's fixture. The title of plaintiff is, therefore, upon the admitted facts, established, and he must have judgment in the terms agreed upon, and as well for the costs of this action.

JUNE 12TH, 1906.

DIVISIONAL COURT.

VOKES HARDWARE CO. v. GRAND TRUNK R. W. CO.

*Mechanics' Liens—Time for Registering Lien—Completion of Work—Contract—Work to be Done to Satisfaction of Architects—Work Done after Registration of Lien—Form of Judgment—Money in Court—Reference—Costs.*

Appeal by defendant Whitham from judgment of MULLOCK, C.J., 7 O. W. R. 537.

R. McKay, for appellant.

J. W. St. John, for plaintiffs.