Motor Vehicles Act, it was intended to fasten liability upon a person who had neither the legal right nor the power to control nor an opportunity to do so.

The appeal of Lozina should be dismissed, and the appeal of Raolovich should be allowed.

By the unanimous judgment of the Court the appeal of Lozina was dismissed; and in the result, the Court being equally divided, the appeal of Raolovich was also dismissed.

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FIRST DIVISIONAL COURT. FEBRUARY 18TH, 1921.

## *DAUGHERTY v. ARMALY.

*Landlord and Tenant—Lease of House—Informal Instrument—"Rent"—"Let"—Implication of Covenant for Quiet Possession—Displacement by Proof of Collateral Agreement—Condition—Proof by Oral Evidence—Interference with Enjoyment of House—Building in Front of it—Interference with Foundation-wall—Leaving Opening in Wall—Injury to Tenant—Damages—Finding of Fact of Trial Judge—Appeal.*

Appeal by the defendants from the judgment of LATCHFORD, J., at the trial, in favour of the plaintiff in an action for trespass, interference with, and injury to a house and premises rented to the plaintiff, and for an injunction; and cross-appeal by the plaintiff as to the damages.

The appeal and cross-appeal were heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, JJ.A.

E. S. Wigle, K.C., for the appellants.

A. St. George Ellis, for the plaintiff, respondent.

MEREDITH, C.J.O., reading the judgment of the Court, said that the plaintiff was tenant of the defendants under a lease dated the 14th November, 1919, for one year, at the rent of $55 a month, payable in advance, and her action was brought to recover damages for an alleged interference with her quiet possession of the premises by the defendants excavating in the lawn in front of the house, tearing away a cement walk leading to the house, the front steps, and the front porch, and cutting a hole 4 feet by 14 feet in the foundation-wall of the house, entirely cutting off the entrance to the front of it, and proceeding to erect a restaurant against the