

Province of Ontario.

HIGH COURT OF JUSTICE.

MEREDITH, C.J. }
ROSE, J. }

[Sept. 14.]

RE BRANTFORD & ELECTRIC POWER CO. AND DRAPER.

Landlord and tenant—"Buildings and erections"—*Payment for—What included—Fixtures and machinery.*

A covenant in a lease to pay for "buildings and erections" covers and includes fixtures and machinery which would have been fixtures but for 58 Vict., ch. 26, sec. 2, sub-sec. (C.) (O.).

Judgment of FALCONBRIDGE, J., affirmed.

Wilkes, Q.C., and A. E. Watts, for the appeal.

James Harley and E. Sweet, contra.

MEREDITH, C.J., ROSE, J. }
MACMAHON, J. }

[Sept. 15.]

WOLFF v. MCGUIRE.

Landlord and tenant—Lease or agreement—Implied covenants—Tenant-like user—Waste—Permissive—Voluntary.

The plaintiff rented premises to the defendant for a month, giving the following receipt for the rent: "October, 20th, 1894. Received from A. G. McGuire the sum of \$9 in full payment for rent of stable from the 25th October, 1894, to November 25th, 1894," and the defendant took possession. During the month, the premises being uninsured, were destroyed by fire. In an action by the landlord against the tenant for damages it was

Held, that the receipt was a lease and not an agreement for a lease, and that possession being taken under it the only covenant to be implied was that the tenant would use the premises in a tenant-like manner, and would not commit voluntary waste: and that the tenant was not liable for permissive waste and that an accidental fire without negligence is permissive, not voluntary waste.

Judgment of FALCONBRIDGE, J., affirmed.

McCarthy, Q.C., for the appeal.

Wallace Nesbitt, contra.

FERGUSON, J.]

[Sept. 18.]

LOCKARD v. WAUGH.

Costs—Taxation—Successful defence upon one ground—Costs relating to other grounds.

It was adjudged that the plaintiff should pay to the defendants so much of the costs of the action (upon a building contract), reference and appeal, as were occasioned by reason of the plaintiff claiming to be allowed, as against the defendants, anything for extra work, in addition to the sums allowed therefor by the architect.