

possession of the roadway for the profitable use and operation of the railway for a term and that the Company was liable to taxation for the roadbed as an occupant is assessed in respect of property; but the property itself being in the Crown or held by the public was exempt and could not be sold to make good the tax. Judgment of the County Court of York reversed.

C. A. Masten, for the appeal. *H. S. Oster*, contra.

Boyd, C., Ferguson, J., Robertson, J.]

[June 20.

GARLAND MANUFACTURING CO. *v.* NORTHUMBERLAND PAPER AND
ELECTRIC CO., LIMITED.

Lessor and lessee—Verbal agreement—Occupation by a company—Holding over—Want of corporate seal—Contract executed and executory—Tenant from year to year—Lease or license—Use and occupation—Rent.

There is a broad and well marked distinction between contracts executed and contracts executory in the case of corporations, and where a contract is executory a corporation cannot be held bound by the Court unless the contract is made in pursuance of its charter or is under its corporate seal. The defendant company had occupied certain premises under a verbal agreement—paid rent for a year, continued in possession afterwards for a short time, and then went out paying rent for the time they were actually in possession.

Held, that as there was no lease under seal the Company were not liable as tenants from year to year, but only for use and occupation while actually in possession. *Finlay v. Bristol and Exeter R. W. Co.* (1852) 7 Ex. 409 discussed and followed. Judgment of the County Court of the County of York reversed.

Thomson, Q.C., for the appeal. *Watson*, Q.C., contra.

Boyd, C., Robertson, J.] REGINA *v.* GRAHAM.

[June 22.

Criminal law—Evidence—Rape—Statement of prosecutrix.

On a charge of rape it was sought to give in evidence statements made by the prosecutrix on the day following the alleged assault to a police inspector who called upon her in reference to the matter.

Held, that the evidence was inadmissible. The statements were not uttered as the unstudied outcome of the feelings of the woman, nor as speedily after the occasion as could reasonably be expected.

Robinette and J. M. Godfrey, for the prisoner. *Cartwright*, Q.C., for the Crown.