

ting fire to the same, retired. The fire spread to the walls of the hen house which was a room in a building also used as a barn; and being communicated to some hay above the hen house, the building was consumed and the fire spread to and destroyed plaintiff's barn. The issues were tried before Forbes, Co. J., who gave judgment for defendant, chiefly on the ground of inevitable accident.

Held, 1, following *Furlong v. Carroll*, 7 O.A.R. 145, allowing the appeal, with costs, that the defendant was liable as the case came within the doctrine laid down in *Rylands v. Fletcher*.

2. That (though this defence was not pleaded) the use of the fire in the manner indicated did not place defendant within 6 Anne c. 58 which enacts that no suit shall be maintained against a person in whose house a fire occurs accidentally, the accident theory not being applicable to this case; and that the above statute is in force in Nova Scotia.

Mellish, K.C., and *Lane*, for appellant. *O'Connor* and *Matheson*, for respondent.

Province of Manitoba.

COURT OF APPEAL.

[Perdue, J.A.]

ANDREWS v. MOODIE.

[June 10.]

Contract—Consideration—Agreement with A. to pay A.'s debt to B.—Novation—Equitable assignment of chose in action.

Appeal from County Court. The defendant's wife having sued him for alimony, they met by arrangement in the office of the wife's solicitor, and in his presence agreed to become reconciled and to resume cohabitation and to settle the suit and the defendant, as a part of the settlement, agreed to pay directly to the wife's solicitor her costs of the action, which were then fixed at the sum of \$50. This action was brought by the solicitor to enforce payment of these costs. The particulars of the claim were stated thus: "The plaintiffs claim from the defendant the sum of \$50 being the amount of the costs of suit of defendant's wife against the defendant, which the defendant