

25 January, 1897.

MURPHY V. LABBÉ.

QUEBEC.]

Lessor and lessee—Use of premises—Destruction by fire—Negligence—Burden of proof—Art. 1629 C.C.

Premises were leased to be used as a furniture factory, the lease containing the usual covenants as to repair. The premises were destroyed by fire of which it proved impossible to discover the origin. In one of the rooms there was a quantity of cotton waste saturated with oil, but nothing to connect it with the fire. In an action by the lessor for the restoration of the premises or equivalent damages,

Held, affirming the judgment of the Court of Queen's Bench, P.Q., Q.R., 5 Q.B. 88, Strong, C.J., dissenting, that there was no obligation on the lessee, by virtue of art. 1629 C.C., to excuse himself from liability by proving that the fire occurred from causes beyond his control; that negligence must be established against him as in other cases of the kind; that he is not liable if he proves that he has used the premises in the manner a prudent owner would use them; and that the presence of the saturated cotton waste was, of itself, no evidence of negligence.

Held, also, that the evidence of workmen of the lessee should not be discredited because they might possibly have feared convicting themselves of imprudent acts.

Appeal dismissed with costs.

Béique, Q.C., and *Trenholme, Q.C.*, for appellant.

Lafleur and Fortin, for respondent.

25 January, 1897.

CITY OF QUEBEC V. NORTH SHORE RY. CO.

QUEBEC.]

Construction of deed—Ambiguous expressions—Conduct of parties—Presumptions.

On the 21st of August, 1882, the Government of Quebec acquired by deed from the City of Quebec all the proprietary rights that the city had in lands designated on the cadastre as