

TENANT DISPUTING LANDLORD'S TITLE.

To the Editor of the Canada Law Journal.

SIR :—The Supreme Court of Nova Scotia have by a recent decision somewhat shattered the old time-honoured doctrine that a tenant cannot dispute his landlord's title. The facts were as follows :—A., an heir at law to B, the mortgagor of certain lands, leased to C. under a written agreement a certain house being on a part of the mortgaged property. Afterwards foreclosure proceedings were taken against the representatives of B, of whom A. was one, and an order of sale passed, and the property was sold to D., who notified C. to pay the rent to him. D. could not get possession of the property peaceably, and had to apply for an order against all in possession. Now, sisters of the deceased mortgagor resisted, so far as the right to the possession of a portion of the mortgaged premises, including the premises leased by A. to C., and an order passed expressly reserving that portion. In the meantime A. repaired the premises and insisted on the rent being paid to him; C. paid to no one; A. distrained for rent, and C. replevied. The whole question, of course, turned on C.'s right to dispute his landlord's title. The County Court Judge, before whom the cause was originally tried, decided that C. could not dispute A.'s title under the circumstances. The Supreme Court, on appeal, have unanimously reversed this decision, and that without taking time to look into the question. The Court consisted of Ritchie, Meagher and Henry, JJ.

The grounds for the decision have not reached me, but it is likely they distinguished it from the leading case of *Delaney v Fox*, in 26 L.J. C.P. 248, and also in 15 Ruling Cases 299. I cite from the latter report. At the trial before Martin, B., at the Yorkshire Spring Assizes, 1857, the defendant gave prima facie evidence of his title, and the plaintiff then showed that at the time she was let into possession by the defendant he had no title himself, and that the real owner, Mrs. Knowles, distrained on the tenant of a cellar in the house in question, and threatened to distrain on the plaintiff, who, under the influence of that threat, paid her the rent. It was objected on behalf of the defendant that the plaintiff was estopped from denying his, the defendant's title, but a verdict was given for the plaintiff, with 40s. damages on the first count, leave being reserved to the defendant to move to have the verdict