

to make the inquiries I have indicated. Two weeks will be sufficient. If the action proceeds, the costs of this motion will be to the defendants in the cause, unless the trial Judge otherwise orders. If no further proceedings are taken, the costs will be paid by the plaintiff to the defendants after taxation.

ANGLISCHICK V. ROM—BRITTON, J.—AUGUST 31.

Landlord and Tenant—Lease—Claim for Forfeiture—Surrender—Possession—Counterclaim—Return of Deposit—Deduction of Rent—Money Lent.—Action against four defendants, Rom, Bernstein, Cohen, and Gang, for a declaration that a certain lease of premises for occupation and use as a moving picture theatre, and the term thereby created, were forfeited, and for possession and mesne profits. The learned Judge finds, upon the evidence, that there was, before action, a surrender of the lease by operation of law; that at the time of the commencement of the action the plaintiff was in possession of the premises; that the plaintiff did not give any notice to the defendants Rom and Bernstein of his intention to exercise his right of re-entry, nor did he enter in any hostile way as against the defendants Gang and Cohen, but by agreement with them, they being in possession under Rom and Bernstein with the plaintiff's consent; and that there was no arrangement in terms made between Gang and Cohen and the plaintiff for the payment or return to any one of a sum of \$1,000 deposited with the plaintiff as security when the lease was made. The defendants Gang and Cohen did not defend. Judgment for the defendants Rom and Bernstein dismissing the action as against them with costs, and for the recovery of \$725 on their counterclaim, being the \$1,000 deposit, less rent due on the 14th October, 1913, \$275, and also for money lent, \$275, with interest at 5 per cent. from the 14th October, 1913, and costs of action and counterclaim. McGregor Young, K.C., and L. Davis, for the plaintiff. M. Wilkins, for the defendants.