

Atkinson, and Shaw) have failed to agree with the Court of Appeal (1911, 2 K.B. 234; noted sub nom. *Rose v. Spicer*, ante vol. 47, p. 606). This was the case in which a piece of land was let for a term of 99 years, on which a chapel was being erected and which was afterwards completed and separated from the adjoining street by railings, and was used as a place of worship for sixty years. With the consent of the Charity Commissioners the lease was then sold, and the purchasers proceeded to convert the premises into a theatre, and for this purpose removed the railings and opened a new door and made various changes in the interior. The vendor had neglected to comply with a notice to repair pursuant to a covenant in the lease, and the lessor was entitled to possession under a proviso for re-entry for breach of covenant, subject to the claim of the purchasers for relief against the forfeiture. The purchasers offered as conditions of obtaining relief, to deposit a sum of money to secure the restoration of the premises to their original condition at the end of the lease, and also to erect and maintain a moveable fence of posts and chains in the line of the old fence, in order to exclude the public from the premises. The Court of Appeal held that the alteration of the premises amounted to waste and was a breach of the covenant to repair; and that relief against the forfeiture could only be granted on the terms of the immediate restoration of the premises to their former condition; the House of Lords, on the other hand, took a more liberal view of the matter, and came to the conclusion that as there was nothing in the lease prohibiting the carrying on of a theatre on the demised premises, the alterations in the circumstances constituted neither waste nor a breach of the covenant to repair, and that relief ought to be granted on the terms proposed by the defendants.

ARBITRATION—UMPIRE—REFUSAL OF ARBITRATORS TO APPOINT
UMPIRE—APPLICATION TO COURT TO APPOINT UMPIRE—PRACTICE—PARTIES—ARBITRATION ACT, 1889 (52-53 VICT. c. 49), s. 5, s. 9, 20—(9 EDW. 7 c. 35 s. 9. ONT.).

Taylor v. Denny (1912) A.C. 666. This was an appeal from the Court of Appeal on a point of practice under the Arbitration Act, in reference to the appointment of an umpire. By the terms of the submission the two arbitrators had power to appoint an umpire, but on being requested to do so by one of the parties to the reference under s. 5 of the Act, refused to do so. The party requiring the appointment then applied to the Court on