

NEW BRUNSWICK.

SUPREME COURT IN EQUITY.

MAY 18TH, 1909.

ROBINSON v. ESTABROOKS AND McALARY.

*Lease — Improvident Contract — Misrepresentation —
Fraud.*

M. G. Teed, K.C., and A. H. Hanington, K.C., for the plaintiff.

H. H. McLean, K.C., and F. R. Taylor, for the defendants.

BARKER, C.J.:—The plaintiff, who is an unmarried woman living in the city of St. John, is the owner of a property fronting on Douglas Avenue about 400 or 500 feet from the junction of that street with Main street. It has a frontage of some 80 feet on the Avenue and extends back some 150 feet. On it stands a four storey brick building some 40 feet wide. In the ground flat there are two shops capable of being used together and the three upper flats are used as tenements. On the rear of the lot there is a warehouse used in connection with the stores, a barn and some sheds. The plaintiff purchased the property from one Watson in August, 1906, for the sum of \$6,400. It was then and apparently is yet subject to two mortgages, one for \$2,500, and one for \$1,000. The difference between the amount of these two mortgages and the purchase money, \$2,900, the plaintiff paid in cash at the time of the purchase. In the latter part of 1907 or the early part of 1908 the defendant McAlary, who had been in business for some five or six years, and the defendant Estabrooks, who had never been in business at all on his own account, entered into partnership with a view of carrying on a wholesale and retail grocery business, and for that purpose they applied to the plaintiff for a lease of a portion of the premises I have described and which had been vacant for some time. As a result of the negotiations the plaintiff and defendants, on the 4th February, 1908, entered into a lease for a term of five years from May 1st, 1908, at an annual rental of \$175, with a covenant for a renewal for a further term of five years. This lease is under seal; it was executed on the day