

and all of them are based on the view that on the facts as proved the result was not within the scope of the covenant.

The first, decided in 1893, was *Lister v. Lane*, to which reference has already been made. In this case an old house had been built on a timber structure laid upon river mud several feet above a layer of solid gravel, and the only way of effectually dealing with it was by the process known as "underpinning," which consists of digging down to the gravel and then building up from that to the brickwork; and it was held by the Court of Appeal that work of this kind was not within the covenant to repair, because it would be in effect "making an entirely new and different house." Having regard to what has already been said, it seems important to notice that the house in question (which was condemned as a dangerous structure and consequently pulled down) was clearly not the principal, but apparently only a very subordinate, part of the subject-matter of the whole demise which was comprised in the covenant to repair. It would therefore appear that for an erection to be a subordinate part of a demise within the rule in *Lurcott's* case it must be a subordinate part (such as a roof, a floor, or a wall) of some structure, and that separate buildings and areas comprised in a single demise should be looked upon for this purpose as separate and distinct.

The second decision, also one of the Court of Appeal, was that of *Wright v. Lawson* (19 Times L. Rep. 203, 510), ten years later. In this case a local authority had served notice to secure the brickwork of a certain bay window of a house, but it was not possible to re-erect the window as it existed before on account of certain defects in its construction, whilst a new bay window could only be built by erecting supports of a substantial character. It was held that the tenant could not under the covenant to repair be rendered liable to replace the old window, and that he had sufficiently discharged his obligation by building a new one set back in the main wall of the house.

The third and last case was that of *Torreus v. Walker*, 95 L. T. Rep. 409; (1906), 2 Ch. 166, before Mr. Justice Warrington.