

2. If so, in what did such negligence or breach of duty consist? A. In not looking after the heating of the lock-up from 12 o'clock Saturday night until 12 o'clock Sunday noon.

3. Was the illness of the plaintiff which immediately followed his imprisonment caused by such negligence or breach of duty? A. Yes.

4. Was the plaintiff at the time of such imprisonment in a reasonably good state of health? A. Yes.

5. If not, did he make known to Lee or Mooney the fact of his health being impaired, and request that the cell be heated so as to meet all reasonable requirements because of his impaired state of health? A. No.

6. If the plaintiff at the time of his imprisonment had been in a reasonably good state of health, would the conditions to which he was subject during his imprisonment have caused the sickness complained of? A. Yes.

7. Were the defendants in control of the heating system which supplied heat to the cell? A. Yes.

8. Was Lee in managing the heating of the cell the servant of the defendants? A. Yes.

9. What amount of damages, if any, do you award the plaintiff? A. Award \$250.

After the jury retired to consider the questions, the plaintiff's counsel asked that in lieu of question No. 6 the following question should be submitted:—

“If the plaintiff was not then in a reasonably good state of health, and did make the fact known to Lee or Mooney, did the defendants take reasonable precautions to prevent his suffering injury?”

This question—numbered 6a—I allowed to be submitted to the jury, in addition to the 9 above mentioned, and the jury's answer to it was “yes.”

This answer may be paraphrased to read as follows:—

“Having regard to the illness of the plaintiff at the time of his imprisonment, the defendants took reasonable precautions to prevent his suffering injury.”