door, so as to make the office into a liquor store, in order to comply with the law requiring separation of liquor from groceries. Plaintiff claiming an injunction to prevent further waste, and right to re-enter for breach of covenant to repair; and the judge, at the trial, finding no damage,

Held, 1. That making door in wall, if in breach of covenant to repair, was not a continuing one and was waived. 2. That under statutory covenant to repair, tenant being bound to keep in repair both the premises and all fixtures and erections made during term, he had right to erect or make such fixtures, etc. 3. Plaintiff's reversion not being injured there was no waste or forfeiture.

Maclennan, Q.C., for plaintiff.

Maclaren, contra.

MOORE V. MITCHELL.

Libel—Pleading in mitigation of damages.

In libel a plea in mitigation of damages must in its nature admit plaintiff's right to some compensation; but it amounts to a contention that the recovery shall be limited to value of plaintiff's character, which value is affected by the facts pleaded.

Such pleas, based upon plaintiff's bad character, must either shew plaintiff a man of bad general reputation or character, or a bad character with regard to some specific act relating to the charge in the libel complained of.

It is not open to a defendant to plead justification to libel, and under such defence to offer evidence of plaintiff's bad character in mitigation of damages.

Marsh, for motion.

Millar, contra.

GOLDSMITH V. CITY OF LONDON.

Municipal corporations—Defective sidewalk—Negligence—Misdirection.

The plaintiff, while crossing a certain street in the city of London, stumbled against the end of a sidewalk—which was constructed of asphalt, boxed in with boards, and was some four inches higher than the crossing,—fell and received severe injuries.

Held (WILSON, C.J., dissenting), evidence of negligence that must have been submitted to the jury, and that they, having found in favour of the plaintiff, their verdict could not properly be interfered with.

Held, also, that it was no misdirection to tell the jury that they were at liberty to infer that there was no evidence of it; that if the roadway was at that level when the accident occurred it had been filled up between then and the examination of it by the defendant's witnesses.

R. M. Meredith, for plaintiff.

W. R. Meredith, Q.C., contra.

IN RE KNIGHT V. UNITED TOWNSHIPS OF MEDORA AND WOOD.

Prohibition—43 Vict. ch. 8, s. 14—48 Vict. ch. 14, s. 1—Colonization road—Title to land.

Held, that a prohibition would not lie to the fourth Division Court of the District of Muskoka, no notice having been given, as required by 48 Vict. ch. 14, sec. 1, amending sec. 14 of 43 Vict. ch. 8, disputing the jurisdiction of said Court; and that in any case prohibition would not lie in this case, the title to the road upon which the injury complained of arose not being in question, the road being a colonization road built by the Government before the organization of the townships of Medora and Wood as a municipality, and the question arising not being one of title, but of liability to keep in repair a road so built.

Arnoldi, for motion.

Pepler, contra.

LAXTON V. ROSENBURG.

Ejectment—Receipt of rent after action brought—Waiver—Intention.

In an action of ejectment, plaintiff alleged a demise to defendant as a monthly tenant. Defence, a yearly tenancy. After notice to quit, plaintiff received from defendant a payment of rent.

Held (affirming the judgment of ROSE, J., at the trial), that there is no distinction in principle between the effect of the payment of rent as such, after action brought, upon the determination of the tenancy by notice to quit and by forfeiture, and therefore the payment of rent in this case after action brought