

LANE V. KERBY—MIDDLETON, J.—DEC. 28.

Landlord and Tenant—Action by Tenants for Relief against Forfeiture of Lease—Discretion—Conduct of Tenants.—An action by tenants for relief from forfeiture, tried without a jury at Sandwich. MIDDLETON, J., in a written judgment, said that, so far as the forfeiture was for non-payment of rent in the strict sense of the term, the landlord was right, but relief would have been granted as a matter of course had the case ended there. There was no real endeavour on the part of the tenants to live up to the obligation to heat the building, and there was most serious misconduct on the part of one of the tenants in connection with the theft of alcohol from the Tanlac Company and injury done to the elevator machinery. The granting of the relief sought rests in the discretion of the Court; and, having regard to all the elements of the case, this should not be exercised in the plaintiffs' favour. The action should be dismissed, with a declaration that the lease was at an end, and the defendant should be awarded possession. J. H. Rodd, for the plaintiffs. F. C. Kerby, for the defendant.

RIZA V. DOWLER—MIDDLETON, J.—DEC. 28.

Building—Order of Municipal Inspector of Buildings for Destruction of Standing Walls of Building Destroyed by Fire—Wall Forming Part of Premises Leased to Plaintiffs not in Dangerous Condition—Refusal to Revoke Order—Admission—Injunction—Damages—Costs.—Action for an injunction restraining the defendants from pulling down a wall so as to destroy the plaintiffs' premises and for damages. The action was tried without a jury at Sandwich. MIDDLETON, J., in a written judgment, said that adjoining an hotel in Windsor there was a small passage which the defendants, the owners of the hotel, roofed over, making a room 5 ft. 2 in. wide by 37 ft. deep. This was rented to the plaintiffs for 5 years at a monthly rental of \$125. In this narrow place they carried on a shoe-shine business so successfully that the net earnings were \$300 to \$400 per month over all expenses. The hotel was burned, but this shoe-shine shop was not destroyed, as it was outside the main walls. The city authorities directed the standing walls to be pulled down, as they were a source of danger—one wall actually fell and the others were most dangerous. The wall which was between this shop and the hotel was undoubtedly in a very dangerous condition. It stood three storeys over the roof of the shop, and leaned out over it, and the heavy cornice tended to