

rent was paid. The cases cited by Mr. Creswicke from Lawson on Presumptive Evidence, 2nd ed., ch. 15, do not, I think, assist. The last edition of Best on Evidence (10th ed., 1906), p. 339, moreover lays down that "the fact of payment may be presumed from any . . . circumstance which renders that fact probable."

I think that the impoverished circumstances of Mrs. Stewart, the fact that all she had in the world was this small property, and the facts that the defendant admittedly gave her pork when he killed once a year, meat of other kinds when he bought from the butcher, apples when she wanted them, and money at least once, entitle me to presume, as I do, that in each year at least some of the rent for that year was paid, and that substantially all the rent to which she was entitled was received from the defendant, and that notwithstanding the fact (if it be a fact) that once or oftener she complained that she had not got a dollar or was not getting a dollar of his rent from him. I think that the defendant intended his pork, etc., as in part payment at least of the rent.

I do not consider the effect of the transaction between the defendant and Heyden; that may be found another barrier in the defendant's way.

I think the defence is not made out, and that judgment must be entered for the plaintiff as asked, and an injunction granted as in the order made by my brother Britton: 9 O. W. R. 926.

As to costs, they will follow the event; the taxing officer will consider whether the letter of indemnity, dated 2nd April, 1907, relieving the plaintiff from all liability for costs, does not disentitle him to costs from the defendant. I do not adjudicate upon that point.

I do not think that any improvements made by the defendant were made under such circumstances as to entitle him to a lien, but were made by him as tenant and to increase the value to him as such tenant.