to interfere with the enjoyment by the lessee of the premises demised.

This point, we may observe, was one of those depending on the view of the judge as to what should be the law. Its solution depended on no statutory enactment, but upon what the Courts in a given state of circumstances might determine to be the legal obligation and rights of the parties to a contract. Such a rule if it were to be laid down for the first time in the present day might be expected to be influenced to some extent by the consideration of the fact that all men are not lawyers and that the law is not made for lawyers as a class, but for the community as a whole, and that no reasonable man, not to speak of judges, could suppose for one instant that the average layman would discriminate very nicely as to the word he should use in making a lease; and to say that if he uses the word "demise" he is bound by an implied covenant for quiet enjoyment, but if he uses "let" or any other equivalent word he is not, would probably be regarded as absurd.

But it must be admitted that when such questions come to be determined by Courts of law at the present day "the authorities" have to be reckoned with, and it is here the difficulty arises in coming to a correct understanding of the authorities bearing on the point; thus we find some Courts adopting the view we have stated: see *Hancock* v. *Caffyn*, 8 Bing. 358; *Buad-Scott* v. *Daniell* (1902) 2 K.B. 351; while on the other hand another Court, and that a Court of Appeal, has twice expressed the view that the existence or non-existence of the implied covenant turns on the highly technical fact whether or not the word "demise" was used in creating the tenancy: *Baynes* v. *Lloyd* (1895) 2 Q.B. 610; *Jones* v. *Lavington*, 114 L.T. Jour. 149. These latter expressions of opinion, it is true, are merely obiter dicta; but the obiter dicta of an Appellate Court, when they conflict with the express decision of a Court of first instance, have the effect of creating considerable doubt and uncertainty as to what the law may ultimately be determined to be.

As we have already intimated, such a rule as the Court of Appeal seems to favour is more consistant with the age of special demurrers, but hardly seems suitable to our present ideas; but unfortunately in determining questions of law British judges are not permitted to indulge too freely in flights into the regions of abstract justice, but are very tightly bound by authorities, and if