

In this case the obligation to repair which came in question was one undertaken by the landlord, who had agreed to keep the outside of the demised premises at all times in good repair; but the learned judge held that the obligation was subject to exactly the same limitations as in the case where it rested on the tenant. Whether this view was correct seems open to question; but with that we are not concerned here. Assuming that it was, there appears every reason for refusing to attach liability to the lessor, in respect of his covenant. Substantially the whole of the structure which was the subject-matter of the covenant to repair had to be pulled down, and it could not have been re-erected in the same manner as before. Applying the test laid down in *Lurcott's* case, no one, if the building had been re-erected, would have called it the same building as it had been. The most important difference between this and the two earlier cases—apart from the question, to which we have just adverted, as to the incidence of liability under the covenant being on the landlord—seems to be that no direct evidence was forthcoming as to any faultiness of construction, and such faultiness was apparently inferred from the circumstance that the building, though it had had a long life (about 200 years), might, like other buildings, have lasted longer still.

In *Lurcott's* case the facts were few and simple. It may be premised that the covenant there was one couched in the most stringent terms, for under it the tenant had undertaken to repair and "keep in thorough repair and good condition" all the premises demised to him; but, though Lord Justice Fletcher Moulton seems inclined to rest his judgment mainly upon this consideration, the other members of the court treat the matter just as if the covenant had been expressed in the ordinary general terms. Shortly before the expiration of the term a dangerous structure notice had been served requiring an external wall to be taken down to the level of the ground floor. The lessee failed to comply with this notice, and the lessor did the work a few weeks after the term had ended, and afterwards, in compliance with a further notice then given under sec. 208 of the