

In August, 1902, one of the buildings on the demised premises—a barn—was destroyed by fire, and was not rebuilt.

The action was brought to recover damages for breaches of covenants on the part of the lessees.

The appeal was heard by MEREDITH, C.J., MACMAHON, J., MAGEE, J.

E. D. Armour, K.C., for defendants, appellants.

W. M. German, K.C., for plaintiffs.

MEREDITH, C.J.—The two main questions argued before us were: (1) whether under the covenants contained in the lease the lessees were bound to rebuild the barn which was destroyed by fire; and (2) whether there had been a surrender by the lessees to the landlord, immediately after the fire occurred, of the part of the farm upon which the barn had stood, and the barn yard adjacent to it.

Upon the second question the Chancellor came to the conclusion that what had taken place between the parties did not operate as a surrender, and I see no reason for differing from him.

In order that the acts of the parties may amount to a surrender by operation of law, it is necessary that there be an agreement by the landlord and the tenant that the term be put an end to, acted on by the tenant's quitting the premises, and the landlord, by some unequivocal act, taking possession. There was as to all these matters conflicting evidence, and the trial Judge having, upon a consideration of the whole of it, reached the conclusion that defendants had not proved the surrender set up by them, that conclusion ought not, in my opinion, to be disturbed.

The first question is one of very considerable difficulty, and I have come to the conclusion I have reached as to it with much hesitation and doubt.

The scheme of the Acts respecting short forms is to authorize the use of certain forms of words which are set forth in the Acts, and are the short forms, and to give to these forms of words, when the instrument in which they appear is declared to be made in pursuance of the Act, the same effect as if other forms of words which are set forth in the Act had been used.

The short forms are, or are intended to be, compendious expressions of what is contained in the corresponding long forms.

In order to provide for cases in which the long forms would not accurately express the terms which the parties to