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takes a new lease from his landlord.<sup>7</sup> A change of possession is but one fact tending to raise an estoppel to deny the surrender of the tenancy.

Since to-day the tenancy or estate is created forthwith upon the execution of the lease, rather than by the entry of the lessee as at common law, and since surrender properly concerns the estate and not the possession, it would seem that a re-letting to a third person would estop the landlord from denying an acceptance of a surrender of that tenancy, whether entry had been made or not. A lessee who finds a third person in possession by virtue of an agreement with the landlord, must necessarily regard the landlord's acts as inconsistent with any rights he himself may have. It is difficult to conceive of two independent tenants of the same premises at the same time. A New York case has held that in a situation like that in the principal case, a surrender took place.<sup>8</sup>

W. A. S.

TRUSTS: NECESSITY OF SEGREGATION OF TRUST FUND.—The decision of the California District Court of Appeal in *Molera v. Cooper*,<sup>1</sup> commented on in the January number of the current volume of this Review<sup>2</sup> has been set aside and a decision has been rendered by the Supreme Court,<sup>3</sup> which accords with the criticism of the case there made.

O. K. M.

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<sup>7</sup> *Lyon v. Reed* (1844), 13 M. & W. 284; *Jungerman v. Bovee* (1861), 19 Cal. 354.

<sup>8</sup> *McInerney v. Brown* (1910), 141 App. Div. 36, 125 N. Y. Supp. 639.

<sup>1</sup> (Sept. 27, 1915) 21 Cal. App. Dec. 363.

<sup>2</sup> 4 California Law Review, 167.

<sup>3</sup> (Aug. 4, 1916) 52 Cal. Dec. 240.