

CONTRACT TO SUPPLY GOODS AS PURCHASER MAY REQUIRE FOR HIS
BUSINESS—AGREEMENT BY PURCHASER NOT TO BUY GOODS
ELSEWHERE—ASSIGNMENT OF CONTRACT—ASSIGNEE OF CON-
TRACT.

In *Kemp v. Baerselman* (1906) 2 K.B. 604 a question was raised somewhat similar to that in *Tolhurst v. Associated Portland Cement Manufacturers*, 1903, A.C. 514, but which the Court of Appeal held was not governed by that case owing to the existence of a stipulation on the part of the purchaser in this case, which was not present in the *Tolhurst* case. The contract in question was one made by the defendant for the supply of all the eggs which one George Kemp should require for one year in his business of a baker, and Kemp bound himself to the defendant so long as the defendant was ready to supply him not to buy eggs elsewhere, and it was this stipulation which was held to differ the case from the *Tolhurst* case. Kemp assigned his business and the benefit of the contract to a joint stock company, which carried on business on a much more extensive scale than Kemp had done. The defendant then refused to supply any more eggs, and the action was brought by Kemp and the company to recover damages for breach of the contract. Channell, J., who tried the action held that the plaintiffs were entitled to damages for refusal to deliver eggs at the place of business formerly carried on by Kemp since the transfer of the business to the company, but not for refusal to deliver eggs at another place of business carried on by the company. With this judgment both parties were dissatisfied, and both appealed therefrom to the Court of Appeal (Lord Alverstone, C.J., and Barnes, P.P.D., and Farwell, L.J.), the plaintiff relying on the *Tolhurst* case. The Court of Appeal allowed the defendant's appeal and dismissed the action on the ground that the stipulation not to trade elsewhere rendered the contract of a personal character and as such not assignable, and that by the assignment of Kemp's business the defendant was discharged from his obligation under the contract. The Court moreover seemed to think that as the contract was to supply eggs for a particular business, that on that ground also it could not be assigned, notwithstanding what was said in the *Tolhurst* case to the contrary.

HIGHWAY—DITCH ALONGSIDE OF HIGHWAY—DEDICATION.

In *Chorley v. Nightingale* (1906) 2 K.B. 612 the Divisional Court (Kennedy and Lawrance, JJ.), affirmed a decision of a