

LANDLORD AND TENANT—BREWER'S LEASE—COVENANT TO BUY BEER OF LESSORS "AND THEIR SUCCESSORS IN BUSINESS"—COVENANT RUNNING WITH THE LAND—LEASE EXECUTED BY LESSEE ONLY—ASSIGNMENT OF REVERSION—BREACH OF COVENANT—32 HEN. 8, C. 34—BENEFIT OF COVENANT OR CHOSE IN ACTION—JUDICATURE ACT, 1873 (36 & 37 VICT., C. 66) S. 25, SUB-S. 6—(R.S.O. C. 51, S. 58, SUB-S. 5).

In *Manchester Brewery Co. v. Coombs* (1901) 2 Ch. 608, the plaintiffs, as assignees of the reversion, sought to restrain a breach of covenant by defendants as lessees, contained in an agreement to take a lease, and whereby they agreed to buy beer of the lessors "and their successors in business." The lease was executed by the lessees only; the original lessors were in fact brewers, though that fact did not appear in the lease. The lessors had sold their business and tied houses (including the demised premises) to the plaintiffs, to whom the reversion was also assigned. After the sale the original lessors ceased to carry on their business as brewers. Notice of the change of ownership was given to the defendants, and for a time they purchased beer of the plaintiffs, but having ceased to do so, the present action was brought. The defendants contended that as there was no actual lease, but merely an agreement to take a lease, signed by the lessee alone, the covenant did not run with the reversion under 32 Hen. 8, c. 34, and was consequently a mere personal covenant which was not assignable. That the plaintiffs were not successors in business of the lessors because they carried on business at another place. Farwell, J., held that there was nothing in the covenant to shew that the beer was to be brewed by the covenantees, and was therefore not personal, and that being so it was a covenant which might run with the reversion, but that inasmuch as the lessors had not signed the agreement, though the covenant might not be enforceable by an assignee under 32 Hen. 8, c. 34, prior to the Judicature Act, yet that it was a chose in action, assignable and enforceable by the assignee in his own name under the Judicature Act, s. 25, sub-s. 6, (R.S.O. c. 51, s. 58, sub-s. 5). Even before the Judicature Act, however, he considered that the payment of rent to the assignees would have created an implied contract to hold the property on the same terms as they were held under the covenantees.

EXPROPRIATION OF LAND—STATUTORY RESERVATION OF MINERALS—'MINERALS.' MEANING OF IN STATUTORY RESERVATION—RAILWAY COMPANY—PURCHASE OF SURFACE.

Great Western Railway Co. v. Blades (1901) 2 Ch. 624, was an action to restrain the defendants from removing clay from beneath