

37. Transferees of the interest of the lessee in the leasehold estate.—
 (a) Assignees of terms for years. (b) Assignees of tenants from year to year. (c) Equitable assignees. (e) Persons succeeding lessees in possession without an assignment. (f) Underlessees.
38. Mortgagees of the term.—(a) Legal mortgagees. (b) Equitable mortgagees.
39. Personal representatives of tenants.—(a) Generally. (b) Liability for dilapidations prior to the death of the lessee. (c) Liability for dilapidations accruing during the administration of the estate. (d) Liability of executor of assignee of term.
40. Legatees of the term.—(a) Legatees taking the term as an absolute gift. (b) Legatees taking the term as tenant for life.
41. Beneficiaries of a leasehold held in trust.
42. Guarantor of the performance of the covenant.

VIII. JUDICIAL RELIEF FROM THE CONSEQUENCES OF NON-PERFORMANCE OF THE COVENANTS.

43. In the course of an action on the covenants.—(a) At common law. (b) Under statutes.
44. By the intervention of a court of equity.—(a) General rule. (b) Accident, surprise, mistake, etc. (c) Notice to quit given by the landlord before his assertion of his rights under the covenant. (d) Negligence of persons employed to do the repairs. (e) No person properly qualified to perform the covenant. (f) Lunacy of landlord. (g) Breach not wilful. (h) Assurances leading the tenant to suppose that the repairs need not be proceeded with. (i) Possibility of compensating the landlord for the breach. (j) Pendency of negotiations with a third party, looking to the total destruction of the subject-matter. (k) Judgment in action obtained by default.

IX. DEFENCES TO ACTIONS FOR A BREACH OF THE COVENANT.

45. Recovery of damages in a previous action.
46. Repairs executed after the commencement of the action.
47. Dilapidations due to lessor's unlawful act.
- 47a. Transfer of defendant's interest prior to the commencement of the action.
48. Impossibility of performance without the commission of a trespass.
49. Impossibility of performance resulting from the rebuilding of the premises by the tenant.
50. Impossibility of performance arising from the act of the legislature.
51. Vis major as an excuse for non-performance.
52. Destruction of the subject-matter of the covenant by fire.
53. Agreement subsequently modified by the consent of the landlord.
54. Waiver of the right of action by the landlord.—(a) Acceptance of rent after breach. (b) Effect of notice to repair given prior to action on general covenant. (c) Eviction.
55. Landlord's acquiescence in the non-performance of the covenants.