omission to observe them is a continuing breach: *Doe* v. *Jones* (1850), 5 Ex. 498; *Coward* v. *Gregory* (1866), L.R. 2 C.P. 153; *Coatsworth* v. *Johnson* (1886), 54 L.T. 520; *Doe* v. *Woodbridge* (1829), 9 B. & C. 376. Breaches of a covenant in a farm lease to keep the fences in repair, and to keep eighteen acres in meadow during the term, are continuing breaches, and the right to re-enter for them is not waived by acceptance of rent: *Ainley* v. *Baisden* (1857), 14 U.C.R. 535.

A covenant which requires the complete performance of a definite act within a specified time, is not a continuing covenant: *Morris* v. *Kennedy*, [1896] 2 I.R. 247. Thus, a covenant to build within a specified time is not such a covenant: *Jacob* v. *Down*, [1900] 2 Ch. 156. Where the lessee covenanted to build a house within four years and failed to perform it, it was held that the receipt of rent by the lessor after that time was a waiver of the forfeiture: *Roe* v. *Southard* (1861), 10 U.C.C.P. 488. But the forfeiture on a breach of a covenant, the necessary effect of which, although a continuing breach, is to put it out of the lessee's power to remedy it, may be completely waived. Thus, where a landlord accepts or distrains for rent, after and with knowledge of a breach of a covenant against subletting, it operates as a complete waiver during the whole term of such sub-letting, but not afterwards: *Walrond* v. *Hawkins* (1875), L.R. 10 C.P. 342; *Lawrie* v. *Lees* (1881), 14 Ch. D. 249, 7 App. Cas. 19.

A demand of rent falling due after a notice to repair has expired, does not operate as a waiver, if there be subsequent non-repair: *Penton* v. *Barnett*, [1898] 1 Q.B. 276. Acceptance of rent which becomes due pending a notice to repair, is no waiver of a forfeiture on the expiry of the notice. And an agreement to allow further time for the repairs is not a waiver of, but only suspends the right of entry: *Doe* v. *Brindley* (1832), 4 B. & Ad. 84.

Where, however, the landlord elects to claim the forfeiture, and brings an action of ejectment, nothing that he may then do will be construed as a waiver of the forfeiture. Thus, neither acceptance of rent, nor his distraining for it, will operate as a waiver. An election to forfeit once made by bringing action, is irrevocable: *Doe* v. *Mews* (1824), 1 C. & P. 346; *Jones* v. *Carter* (1846), 15 M. & W. 718; *Grimwood* v. *Moss* (1872), L.R. 7 C.P. 360. Where the right to re-enter has arisen on the bankruptcy of the lessee, the annulment of the bankruptcy after the issue of the writ in ejectment will not defeat the forfeiture: *Smith* v. *Gronow*, [1891] 2 Q.B. 394.

But if a claim is made in the writ for an injunction to restrain the breach giving rise to the forfeiture, in addition to the claim for possession, or if the lessor in his pleading treats the tenancy as subsisting, it has been held to operate as a waiver: *Evans* v. *Davis* (1878), 10 Ch. D. 747; *Holman* v. *Knox*, 3 D.L.R. 207.

The action of ejectment shews an irrevocable intention on the part of the landlord to avoid the lease. Acceptance of rent, after the issue of the writ, will not operate as a waiver, nor set up the former tenancy, but it may be regarded as evidence of a new tenancy on the same terms from year to year: *Evans* v. *Wyatt* (1880), 43 L.T. 176. Thus, where a landlord, after an action of ejectment was commenced for the forfeiture of the