

pulley upon the main shaft; as, while this was not set up in the pleadings or particulars, it was developed in the course of the evidence of the defendants' employees and witnesses.

Judgment will, therefore, go for the amount awarded, \$1,650 (apportioned \$500 to the infant son, which amount must be paid into Court, and \$1,150 to the widow), and costs.

MEREDITH, C.J.C.P.

JANUARY 30TH, 1913.

CURRY v. PENNOCK.

Landlord and Tenant—Lease—Covenant not to Sublet—Power to Relieve from Consequences of Breach—Importance of Personality of Occupiers—"Interest in or Use of any Part of the Property"—Construction of Agreement between Tenants and Stranger—Power of Assignee of Reversion to Evict—Landlord and Tenant Act, 1 Geo. V. ch. 31, secs. 4, 5—Other Breaches of Provisions in Lease—Evidence—Judgment for Possession.

Action to recover possession of demised premises, for an injunction, and other relief.

T. J. W. O'Connor, for the plaintiff.

J. R. L. Starr, K.C., for the defendants.

MEREDITH, C.J.C.P.:—If this Court had power to relieve the defendants from the effect of their conduct, which, over their own signatures and seals, they have plainly provided shall be a loss of their rights in the property in question, I would be in favour of giving them another chance to live up to the terms of their agreement, because nothing that they have done, beyond their rights, has been proved to have injuriously affected the plaintiff in any way; but there is no such power; the plaintiff has a right to exact that which the agreement in question provides shall be the effect of a breach of its provisions.

The statute-law has given to the Courts much power to relieve against a right of re-entry or forfeiture for breach of a condition or covenant between landlord and tenant, but has expressly excluded a condition or covenant against under-letting or parting with the possession of the leased land; and this case is one, in substance, to which such exception is especially appli-