

that he will not within the period of ten years from the date hereof erect or cause or suffer to be erected upon the said lands any dwelling house or houses to cost less than thirty-five hundred dollars each, nor any dwelling other than detached, and each dwelling so erected shall be on a portion of land not less than thirty feet frontage, but this restriction shall not apply to the Bloor street frontage to a depth of ninety feet (90') on which stores may be erected."

The covenants in the deed from Aikens to the York County Loan and Savings Company run with the land as they deal with the occupation and user of the land. Consequently they may be enforced against the company or its purchasers, of whom the vendor is one, by Aikens or those claiming under him.

If Aikens chooses to release the vendor and his lands, he may do so effectually, but the letter signed by him promising to take no action is not sufficient to eliminate the covenants and the purchaser is entitled to a proper release from him.

But I see nothing in the facts as presented in the material filed, to indicate that any other purchaser is in a position to enforce those covenants.

Aikens, so far as disclosed, neither contemplated nor carried out any building scheme and there is nothing before me to suggest that any purchaser bought upon the footing that the restrictions were to ensure to his benefit.

Therefore the case may be reduced to the elements stated by the Master of the Rolls in *Reid v. Bickerstaff*, [1909] 2 Ch. at p. 320, thus: "A subsequent purchaser of part of the estate does not take the benefit of the covenant unless (a) he is an express assignee of the land, or (b) the restrictive covenant is expressed to be for the benefit and protection of the particular parcel purchased by the subsequent purchaser.

As there is no evidence that any subsequent purchaser can qualify in either respect, the question submitted, so far as it involves the rights of parties other than Aikens, may be answered in favour of the vendor.

I was not asked to deal with the rights arising out of the covenants, if any, exacted by the York County Loan and Savings Co., and do not do so.

While the incidence of restrictive covenants is properly the subject of an application under the Vendor and Pur-