were not confined only, as they are, to his acts, &c., and the words "notwithstanding any act of the covenantor" had accordingly been omitted in the Act, then the *insertion* of those words by the conveyancer would have been the introduction of an exception and qualification within the Act; and if this be so, the *omission* of those words cannot be the same thing, and be also an introduction of a qualification. Even though the omission of the words should be within the Act as regards the first covenant, it by no means follows that the effect of such omission would extend to the following covenants, and if not they would remain qualified (*Trenchard* v. *Hoskins*, Winch. 91, 1 Sid. 328; *Browning* v. *Wright*, 2 B. & P. 18.) The common practice in the profession is to strike out the words "notwithstanding, &c." under the belief that thereby all the covenants are to be read as in the second column, but unqualified, and without any acts or defaults of any one being excepted. If, however, the above remarks are entitled to any weight, it might be prudent in such cases to give the covenants at full length.

The forms of covenants adopted have received the sanction of the use of centuries, and as their effect is well understood, and they have been illustrated by many cases, it is very unwise to vary from them without necessity. It has been said, however, that in some respects the forms are not sufficiently extensive, and that they should extend to matters to which the covenantor may have been *party or privy*, for that these words are not included within the words "permitted or suffer ed Sug. Vend. 13 ed. 490.) Therefore where a mere trustee to bar dower (the purchaser taking the fee, subject to his interpose estate, joined with the purchaser in making a mortgage, having previously concurred with him in another conveyance, (*Hobson* v. *Middleton*, 6 Bar. and Cres. 295;) it was of course held that the latter conveyance was a breach of his covenant that he had done no act to encumber the estate, and the Court would not look to the value of his estate or the trust engrafted on it; but it was held that he was not responsible for the concurrence of the purchaser in the same deed, although he covenanted that he had not permitted or suffered any act whereby any incumbrance was created. The common words that he had been "party or privy," &c., would have given a remedy under the covenant, for of course he was party, and therefore privy to the conveyance, although the purchaser might have conveyed without him. So again the covenants only extend to acts, &c., knowingly or willfully suffered or permitted to the contrary, and not to all defaults of the covenantor, and the distinction is very material: (Sug. Vend., 13 ed. 490.)

It is not prudent to omit a covenant, as for instance, the covenant for quiet possession or further assurance, under the impression that the covenant for right to convey free from all incumbrances will afford in all cases an adequate remedy. Thus, larger damages may be recovered under the covenant for quiet enjoyment than under that for right to convey: (*Hodgins* v. *Hodgins*, 13 U. C. C. P. 146 Richards, J., diss.;) under the latter, unless in cases of actual or constructive frauds by the covenantor, defects in title through his default, or the right of some one claiming under him, and the like, no greater damages can be recovered, as a general rule, than the purchase money and interest. So, on the other hand, the remedies on the covenant for right to convey are not always supplied by the covenant for quiet possession, as under the latter no cause of action arises till disturbance. Under the covenant for right to convey only nominal damages are recoverable, unless there be proof of actual damage or eviction: (*Bannon* v. *Frank*, 14, U. C. C. P. 295; *Snider* v. *Snider*, 13 U. C. C. P. 158; *Grahame* v. *Baker*, 10 U C. C. P. 427.) A. L.

The illness of Mr. Justice John Wilson has assumed such an alarming character that his life is despaired of. He succeeded notwithstanding his illness in finishing the Goderich Assizes; but could do no more, and went to London to rest. Judges Hughes of St. Thomas took the Assizes for him at Chatham, and Judge Duggan of Toronto was sent to fill his place at Sandwich. It was at first hoped that perfect rest and change of air might restore his failing health, but his physicians now fear the worst. The sympathies of his many friends in the profession and out of it are with him in his sufferings.
