

### REVIEW OF CURRENT ENGLISH CASES.

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DEED—CONSTRUCTION—TITLE—LEASE—MINES AND MINERALS  
—CONVEYANCE OF REVERSION—SEVERANCE OF MINERALS—  
RENT—APPORTIONMENT—STATUTE OF LIMITATIONS, 1833  
(3-4 W. 4, c. 27), s. 9—(R. S. O. c. 75, s. 6 [5]).

*Mitchell v. Mcsley* (1914) 1 Ch. 438. This is an important decision under the Statute of Limitations. In 1740 the defendant's predecessors in title granted to a coal company a lease of the coal under certain lands for a term of 200 years at a specified rent dependent on the amount of coal extracted. By two indentures dated in 1791, the defendant's predecessors in title conveyed to the plaintiff's predecessors in title portions of the land; neither of these conveyances excepted the minerals and no mention of the lease of 1740 was made except in the covenant against incumbrances from the operation of which it was excepted. In 1828 part of the land comprised in the deeds of 1791 were reconveyed to the defendant's then predecessor in title and in exchange he granted to the plaintiff's then predecessors in title certain other parts of the lands to which the minerals in the lease were sub-jacent. This deed did not except the minerals. The defendant and his predecessors in title had always received the whole of the rents as they accrued due under the lease and had never accounted for any part thereof to the plaintiff or any of his predecessors in title. The present action was brought to recover the plaintiff's share of the rent as part owner of the reversion in the lease. The defendant contended (1) that the reversion of minerals expectant on the termination of the lease was not comprised in the conveyances under which the plaintiff claimed; (2) that the rent was not apportionable; (3) that the plaintiff's claim was barred by the Statute of Limitations, 1833, s. 9, (R.S.O. c. 75, s. 6(5).) Eve, J., who tried the action, negatived each of these contentions and his decision was affirmed by the Court of Appeal (Cozens-Hardy, M.R., and Eady and Phillimore, L.JJ.) The Master of the Rolls points out that the only persons who could receive the rent were the lessors and their successors, and consequently there never was any wrongful receipt; the plaintiff and her predecessors were entitled to their proportion of the rent from time to time received, and the Statute of Limitations, though not a bar to the action, was a bar to the plaintiff recovering more than six years' arrears prior to action.