covenants. The defendants became the assignees of the lease, having obtained leave and were bound by this covenant and provision by virtue of R.S.O. 1897, c. 125, s. 3. That statute also expressly brings the defendant within the provision for re-entry, R.S.O. 1897, c. 170, s. 13. The lessees were co-partners in a trade for the carrying on of which the demised store was acquired by and let to them. After occupying the demised premises for several years they dissolved the partnership, one of the members retiring entirely from the business and going into a like business in competition, selling out absolutely all his share and interest in the concern, including the lease, to the other member without the leave of the lessor.

Held, under these circumstances that there was a breach of the condition. There was in form as well as in substance an assignment of the lease to which each of the lessees was a party, and the case was within the terms of the condition. "The case of *Barrow* v. *Isaacs* (1901) 1 Q.B. 417 was very different in this respect from this case, for in that case the landlord would willingly have given his consent if it had been asked for, while in this case the parties were at 'daggers drawn,' the lessor watching, if not praying, for an opportunity to re-enter. And it may be here interjected that the enactment before mentioned (R.S.O. 1897, c. 170, s. 13), excepts a covenant against assigning or subletting from its provisions as to relief from forfeiture contained in it. Then it was urged that the transaction was not an assignment, but in law merely a release. This is incorrect, for the lease was that of co-partnership property in regard to which there would be no survivorship and so the case of *Corporation of Bristol* v. *Westcott,* 12 Ch.D. 461, and what was said in it on this subject is inapplicable here, whatever effect they might otherwise have had, so that, however the case is looked at, what was done came within the very words of the contract of the parties that the lessee should not assign without leave, and it was a violation of one of the very things the parties contemplated in making the proviso.

Varley v. *Coppard,* L.R. 7 C.P. 505, followed, and see *Horsey* v. *Stieger* (1898) 2 Q.B. 259, 264, and *Langton* v. *Henson* (1905) 92 L.T. 805.

Gibbons, K.C., and *G. S. Gibson,* for defendants, appellants. *Shepley,* K.C., and *Meredith,* contra.