expressly mentioned or not, are liable upon the contracts of the testator or intestate, as being in law the assignees or assigns of the deceased contractor, and that the liability is not absolute, but only in so far as they have received assets.

The learned reader has already grasped our point.

The purchaser of lands subject to a mortgage is, equally with the executor or administrator, an assign of the mortgagor, and *ex hypothesi* he has, or must be treated as having assets retained to meet this very indebtedness: to wit, the mortgage money which he deducted from the consideration for the lands.

The mortgagee's rights against the executor or administrator are not increased by the fact that they are expressed; and his rights against the purchaser are not diminished by the omission of the word "assigns" in the covenant.

But, it may be objected, the cases of the purchaser and of the personal representative cannot be analogous, for when the mortgagor dies there is an end of him, at least so far as rights and remedies are concerned, and his personal representative, if he have assets, must alone be looked to; whereas, if the mortgagor be still alive, he remains liable to the mortgagee even after selling the lands.

A simple case might be put which will both illustrate and answer this objection: Suppose a man dies leaving a will, whereby he directs his executor to pay all his debts and funeral expenses, and to give the residue of the estate to the testator's wife. The debts include a mortgage of $1,000. The assets are just sufficient to cover all the liabilities. The executor discharges them all except the $1,000, which he puts in his own pocket. Subsequently, the testator's estate is increased by a legacy of $1,000 under the will of a distant relative, and the amount is sent direct to the wife. What are the mortgagee's rights?

The executor is surely liable, for he has assets still in his hands sufficient to meet the claim, and (omitting the question of remuneration for services) he has no equity to compel the wife to part with the money. But is it not equally clear that the wife is also liable, although perhaps only secondarily, just as we shall see the mortgagor would be if he were still alive?

It is not, therefore, altogether true to say that after the death of a mortgagor his personal representative must alone be looked to.