

his knowledge of the title of a *cestui que trust*, as a purchaser, has been held sufficient notice to entitle the trustees of the latter to maintain *assumpsit* for use and occupation, as grantees of the reversion, against a tenant who had improperly paid over his rent to the original landlord, though the tenant had no notice of the legal title being in the plaintiffs, *Lumley v. Hodgson*, 16 East, 99. And in *Birch v. Wright supra*, it was held, that an action for use and occupation lies for the grantee of an annuity after a recovery in ejectment against a tenant, in possession under a demise from year to year, for all rent in his hands at the time of notice by the grantee, and down to the day of the demise in the ejectment, but not afterwards, for then the grantee treats the tenant as a trespasser, and see *Martin v. Martin*; *Dailey v. Grimes supra*.

*As to attornments to a mortgagee after the forfeiture of the 750 mortgage, see *Moss v. Gallimore* and notes, 1 Smith Lead. Cas. 310;¹⁶ *Gladman v. Plumer*, 15 L. J. Q. B. 79.

XII. XIII. **Secreting ejectments.**—By the Act of 1870, ch. 420,¹⁷ abolishing fictions in ejectment, the real persons who are proper as plaintiff and

rent has become due, the previous advance then becomes an actual payment and cannot be disturbed by any subsequent notice of the transfer of the reversion. *Cook v. Guerra*, L. R. 7 C. P. 132. See this case also as to what is a good notice.

¹⁶ 1 Smith's Lead. Cas., (11th Ed.), 514, 533. There are numerous English cases dealing with attornment clauses in mortgages but they have no especial interest for us.

¹⁷ This act was repealed and re-enacted by the Acts of 1872, ch. 346, and 1888, ch. 547, (Code 1911, Art. 75, sec. 71).

The Act of 1872 allowed the plaintiff in ejectment to recover substantial damages as well as possession of the land itself, whereas prior to this act he was driven to an action of trespass for mesne profits brought subsequent to his recovery in ejectment.

The Act of 1888 was doubtless the result of the decision in *Mackenzie v. Renshaw*, 55 Md. 291. The previous acts authorized the service of a copy of the declaration on the land, if no person was in actual possession. In that case the return of the sheriff was "not found, no tenant in possession, copies set up on the premises," and it was held that a judgment by default against the defendants who had not been served with process and had not appeared voluntarily was erroneous. The court, however, was careful to point out that this did not apply to an action of ejectment between landlord and tenant under the Statute of 4 George II. and its re-enactment here by the Act of 1872, ch. 346, (Code 1911, Art. 75, sec. 73). The Act of 1888 provides that if no person shall be in possession of the premises, or if the same be unimproved vacant property, a copy of the declaration and summons shall be posted on the premises and that notice of the object of the suit and of the substance of the declaration shall be published as the court shall direct, giving notice to the defendants to appear to and defend the action by a day to be named by the court not less than twenty days from the first publication of the notice.