lessors may enforce it in respect of their interest in it, Yates v. Cole, 2 Brod. & Bing. 660; Badeley v. Vigurs, 4 E. & B. 71,[7] and, in like manner, covenant will lie for the assignee of *part* of the premises from the lessee against the lessor, Palmer v. Edwards, Doug. 187. See also Simpson v. Clayton, 4 Bing. N. C. 758, that an assignee of part only of the interest of the original lessee may sue upon a covenant, that the latter will use his best endeavours to procure a renewal of letters patent, &c., without joining the assignee of the remaining parts, for they have several and distinct interests in the term; and no case appears to have laid it down that tenants in common *must* join in an action of covenant; the utmost that has been established seems to be that tenants in common may join in those actions of covenant, which are merely personal and several in damages only, as on the covenants to repair, *per* Tindal C. J.

6. That in the king's case, the condition in that case is not destroyed but remaines still in the king.

*7. By act in law a condition may be apportioned in the case of a **339** common person; as if a lease for yeares be made of two acres, one of the nature of Burrough English, the other at the common law, and the lessor having issue two sonnes dieth, each of them shall enter for the condition broken, and likewise a condition shall be apportioned by the act and wrong of the lessee, as hath been said in the Chapter of Rents.

8. If a lease for life be made, reserving a rent upon condition, &c., the lessor levies a fine of the reversion, he is grantee or assignee of the reversion; but without attournment hee shall not take advantage of the condition, for the makers of the statute intended to have all necessary incidents observed, otherwise it might be mischievous to the lessee. (But attornment being taken away by Stat. 4 & 5 Ann. c. 16, the law is now otherwise.)[8]

9. There is a diversity between a condition that is compulsory, and a power of revocation that is voluntary: for a man that hath a power of revocation, may by his owne act extinguish his power of revocation in part, as by levying of a fine of part; and yet the power shall remaine for the residue, because it is in nature of a limitation, and not of a condition; and so it was resolved in the earle of Shrewsburie's case, in the Court of wards, *Pasch.* 39 *Eliz. and Mich.* 40 *&* 41 *Eliz.*

10. If the lessor bargaine and sell the reversion by deed indented and inrolled, the bargainee is not in the *per* by the bargainor, and yet hee is an assignee within the statute. So if the lessor grant the reversion in fee to the use of A. and his heirs, A. is a sufficient assignee within the statute, because he comes in by act and limitation of the partie, albeit he is in the *post*, and the words of the statute be, *to or by*, and they be assignees to him, although they be not by him; but such as come in meerly by act in

[7] In Worthington v. Cooke, 56 Md. 51, W leased to C, who in turn assigned to L. Thereafter W and L conveyed to V in fee a part of the demised premises. Subsequently W sued C in covenant for non-payment of rent. *Held*, that the rent was apportionable and the plaintiff could sue in covenant for the whole rent and recover that part to which he was entitled. See also Baynton v. Morgan, 22 Q. B. D. 74; 21 Q. B. D. 101.

[8] See Scaltock v. Harston, 1 C. P. D. 106.