not be charged with this covenant, for although the rent reserved was increased in respect of the stock or sum, yet the rent did not issue out
346 of the stock or sum, *but out of the land only, (see Tazewell v. Dickinson, 6 B. & C. 251,) and therefore as to the stock or sum the covenant is personal, &c., Spencer's case, 3rd Resolution; see Dean, &c. of Windsor v. Gover, 2 Wms. Saund. 302.

Accordingly, in Glenn v. Canby *supra*, the Court went on to say, "if on the other hand the covenant does not extend to nor affect the quality, mode, or value of enjoying the estate conveyed, and is merely collateral to it, (as in the before cited case of Mayor of Congleton v. Pattison, where, in a lease of lands with liberty to make a water-course and erect a mill the lessee covenanted, for himself, his executors, administrators *and assigns*, not to hire persons to work in the mill who were settled in other parishes, without a parish certificate,) or is of such a character that a performance of it will defeat the estate of the party claiming the performance, (*e. g.* a covenant for payment of a mortgage debt, as such payment would defeat the estate of the covenantee,) then it does not run with the laid nor bind the assignee of the covenantor, though he be expressly included by the general term *assigns*." And so it was there determined that a covenant of a mortgagor, for himself, his executors, administrators and assigns, to pay the mortgage debt did not bind his assignee, though the debt was contracted for the purpose of improving the property, and though the deed contained a clause declaring that the covenant to pay the debt *should run with the land*. And where a mortgagee died possessed of the residue of a mortgage-term subject to a proviso, that in case the mortgagor should pay him, his executors, administrators or assigns, a certain sum on a given day the term should determine; the money was not paid on that day, and the mortgagee bequeathed that sum of money to the plaintiff, and made him one of the executors of the will, it was held that the plaintiff could not maintain an action of covenant in his own name as assignee of the term, though his co-executor had assented to the bequest, both because the covenant with the mortgagee was collateral and did not run with the land, and because it was broken in his life-time, Cunham v. Rust, 2 Moore, 164. To which it may be added, that if a covenant be contingent or upon a possibility, as that if the lessor upon his view, &c., finds the lands, &c., well repaired at the end of the term, he will make a new lease, the assignee shall not have covenant for the covenant broken, Com. Dig. Covenant, B. 3.

Covenants not to assign.—So a covenant not to assign generally must be personal and collateral, and can only bind the lessee himself, for there never can be any assignee, Bally v. Wells *supra; i. e.*, where the covenant is *not to assign at all*, because the covenant is gone, whether the assignment be with the license of the lessor or not. In Paul v. Nurse, 8 B. & C. 486, the lessee covenanted for payment of rent, and not to assign *without the lessor's consent;* the term vested by assignment in A., against whom covenant was brought for non-payment of the rent, and who pleaded that before the rent fell due, he had assigned over: the plaintiff replied the covenant not to assign, but the replication was held bad; Holroyd J. observing, that the general principle was that a lessee may assign his interest in the term; but the lessor may restrain the lessee from assign-