lease, the measure of damages would be such a sum as would, as far as money could, put the plaintiff in the same position as if he had still the defendant's laibility, instead of the liability of another of inferior pecuniary ability, for breaches both past and future. This, as the Court remarked, was difficult to be ascertained, and therefore they recommended that the lease should be surrendered up, and then the measure of damages would be, by how much worse off the plaintiff was than he would have been had the defendant continued bound as lessee all the time, as he would have been had he not broken his covenant. As to conditions not to assign, see Dumpor's case, 4 Rep. 119; 1 Smith's Lead. Cas. 15.

Collateral covenants.—Some further instances of such collateral covenants will be given.[25] In Purefrey's case, Moor. 243, a covenant by lessee of a tavern to account monthly with the lessor for the wine that he sold, and to pay so much money for every tun sold, was considered collateral merely, and see Doe v. Reid, 10 B. & C. 849. In Grey v. Cuthbertson, 4 Doug. 351, the lessee covenanted to leave all trees he should plant during the term; the lessor covenanted to pay for them at an appraisement to be made by two persons, one to be chosen by each of the parties. At the expiration of the term, the assignees of the lessor refused to name an appraiser, and this refusal was assigned as a breach in an action of covenant against them; but it was held that this covenant did not run with the land and the assignee was not bound, see Martyn v. Williams, 1 Hurl. & N. 817. In Collins v. Plumb, 16 Ves. Jun. 454, it was doubted, whether a covenant in a conveyance in fee with the grantors, (lessees of water-works,) not to sell or dispose of water from a well to the injury of the proprietors of said water-works, their heirs, &c., and assigns, ran with the land so as to bind and be enforced by assignees, and a demurrer was allowed and the parties left to law. In Collison v. Lettsom, 6 Taunt. 224, a covenant
348 by lessor, his heirs and assigns, with lessee, his *executors and assigns, to give him a right of pre-emption of an adjoining parcel of

---

[25] The latter cases supply the following additional examples of collateral covenants: A covenant in a deed by grantee, a railroad company, to leave at a siding cars laden for the covenantee. Whalen v. R. R. Co., 108 Md. 11; 112 Md. 187. A condition or covenant in a lease giving lessor, his heirs or assigns, a right of re-entry in case the lessee or his assigns, or any tenant or occupier of the demised premises, should be lawfully convicted of any offence against the game laws. Stevens v. Copp, L. R. 4 Ex. 20. By lessor not to build or keep any house for the sale of liquor within one-half mile of the demised premises. Thomas v. Hayward, L. R. 4 Ex. 311. A covenant in a sub-lease by sub-lessee to pay taxes on property included in the original lease but not included in the sub-lease. Gower v. Postmaster General, 57 L. T. Rep. 527. A covenant by sub-lessor in a sub-lease to do an act not in respect to the demised premises but which will protect from forfeiture the estate of the sub-lessee. Dewar v. Goodman, (1909) A. C. 72; (1908) 1 K. B. 94; (1907) 1 K. B. 612. By lessee not to sell the hay and straw grown on the demised premises without the landlord's consent. Lybbe v. Hart, 29 Ch. D. 8, (but questioned in Clegg v. Hands, 44 Ch. D. 512.)