dan, 1 Doug. 452. In Rowley v. Adams, 4 Myl. & Cr. 534, a testator having been assignee of a leasehold estate whose rent was greater than its yearly value, his executors were ordered by the Court to take such steps, as might be necessary to relieve the estate of the testator from liability for the rent and covenants. They endeavoured to prevail on the lessor to accept a surrender, which he refused to do, and they took no other steps towards complying with the order. Lord Cottenham, after making some observations on the morality of an assignee assigning over to escape further liability, and considering the order right, held that the executors, in obedience to the order, ought to have assigned to some other person, and that not having done so, they were bound to exonerate the testator's estate from any liabilities to which it had been subject, in respect to the lease, since the time at which they might have made such an assignment.

Liability of assignee in equity.—With us, too, it is held that an assignee, if he assign over before action brought, is not liable *at law* for breaches of covenants running with the land incurred in his *time, the remedy **352** being in equity alone.[39] This was so determined in Hintze v. Thomas *supra*, on the authority of Platt on Covenants, 495, and Fagg v. Dobie *supra;* and Harley v. King, 2 Cr. M. & R. 18, was denied, where the contrary was held because the right of action was completed and vested before assignment. See Hartshorne v. Watson, 5 Scott, 506, that an action will lie against an assignee for rent accrued before a re-entry for a forfeiture by the lessor, notwithstanding the lessor, after such re-entry, is to have the premises again as if the indenture had never been made.

An assignee of a lessee for a year, holding over after the year, though not an assignee strictly according to the rules of law, yet shall be accounted such an assignee as to perform the covenants made between the parties, Bromefield v. Williamson, Style, 407.

Liability of original lessee.—*Express* covenants running with the land and entered into by the lessee for years, for himself, his executors, administrators, and assigns, binds *him* during the term, though broken after he assigns over, and after acceptance of rent by the lessor from the assignee, Barnard v. Godscall, Cro. Jac. 309,[40] and they bind the personal representative of the lessee having assets, Brett v. Cumberland, *ibid.* 521, and see the notes to Thursby v. Plant *supra.* The older authorities are collected in Mr. Cook's argument in Moale v. Tyson, 2 H. & McH. 387, where covenant for rent in arrear was held to lie by the devisee of the reversion, as an assignee, against the lessee after he had assigned over. But the law

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[39] This is the established doctrine in Maryland. Donelson v. Polk, 64 Md. 501; Reid v. Wiessner Co., 88 Md. 234; Commercial Asso. v. Robinson, 90 Md. 615.

[40] Worthington v. Cooke, 56 Md. 53; Consumers Co. v. Bixler, 84 Md. 447; Baltimore v. Peat, 93 Md. 699; Horner v. Chaisty, 101 Md. 596; Christhilf v. Bollman, 114 Md. 486; Baynton v. Morgan, 22 Q. B. D. 74; 21 Q. B. D. 101.

Similarly a lessor who has assigned his reversion remains liable on his express covenants. Stuart v. Joy, (1904) 1 K. B. 362.