Leading Cases concludes his examination of this question as follows: "Upon the whole there appears to be no authority which has decided, apart from the equitable doctrine of *notice*, that the *burden* of a covenant will run with the land in any case except that of landlord and tenant." Vol. 1, p. 88, 11th Ed. And his conclusion is affirmatively supported by the cases of Haywood v. Brunswick Soc., 8 Q. B. D. 403 and Austerberry v. Oldham, 29 Ch. D. 750, both of which overrule Cooke v. Chilcott *supra* on this point. Cf. also Andrew v. Aitken, 22 Ch. D. 218.

**Equitable doctrine of notice—Restrictive covenants.**—Now the reason of this rule that the *burden* of a covenant in a conveyance in fee will not run with the land to which it relates is generally stated to be that the assignee of a covenantor might thereby be held responsible for the performance of obligations of the existence of which he was ignorant;—a reason by the way which is clearly insufficient in view of the compulsory system of registration which universally obtains in this country. But the rule and the reason for it nevertheless opened an obvious way for a court of equity to enforce such covenants against an assignee of the covenantor by the application of the doctrine of notice independently of the question whether the covenant ran with the land at law. The leading case is Tulk v. Moxhay, 2 Phill. 774 (1848), in which it was held that a covenant made by a purchaser of land that he and his assigns would use, or abstain from using, it in a particular way would be enforced in equity against all subsequent purchasers with notice of the covenant, independently of the question whether the covenant ran with the land at law.

**Persons affected.**—This doctrine applies to both deeds and leases and affects all subsequent purchasers, lessees, sub-lessees, and even mere occupiers, with notice of the covenant, actual or constructive, both purchaser and lessee being bound to make proper inquiry into the vendor's or lessor's title. Wilson v. Hart, L. R. 1 Ch. 463; Richards v. Revitt, 7 Ch. D. 224; Patman v. Harland, 17 Ch. D. 353; Nicoll v. Fenning, 19 Ch. D. 258; Nottingham Co. v. Butler, 15 Q. B. D. 261; 16 Q. B. D. 778; Mander v. Falcke, (1891) 2 Ch. 554; John Brew. Co. v. Holmes, (1900) 1 Ch. 188; Holloway Bros. v. Hill, (1902) 2 Ch. 612; *In re* Nisbet, (1906) 1 Ch. 386; (1905) 1 Ch. 391. But a subsequent tenant of premises subject to a restrictive covenant, who, if he had asked his lessor would have been told there was no restriction, and, if he had examined the pervious conveyances, would have found none, is not bound by the covenant. Carter v. Williams, L. R. 9 Eq. 678. As to a title by adverse possession as against a prior restrictive covenant, see *In re* Nisbet, (1906) 1 Ch. 386; (1905) 1 Ch. 391.

**Basis of doctrine.**—The principle of Tulk v. Moxhay is either an extension in equity of the doctrine of Spencer's Case to another line of cases, or else an extension in equity of the doctrine of negative easements. London Ry Co. v. Gomm, 20 Ch. D. 562. The latter view seems to be now generally approved. *In re* Nisbet, (1906) 1 Ch. 386; (1905) 1 Ch. 391. But where the benefit of a restrictive covenant has been once clearly annexed to land, it passes by an assignment of the land and runs at law as well as in equity, because the assignee has purchased something which inhered in or was annexed to the land he bought. Farwell, J. (whose judgment was affirmed by the Court of Appeal) thought it unnecessary to call in aid the analogy of easements and added: "The accurate ex-