

REVIEW OF CURRENT ENGLISH CASES.

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LANDLORD AND TENANT—LEASE—COVENANT NOT TO ASSIGN WITHOUT CONSENT—PAYMENT FOR LEAVE TO ASSIGN—FINE OR SUM OF MONEY IN NATURE OF A FINE—CONVEYANCING ACT, 1892 (55-56 VICT. C. 13) S. 3—WAIVING BENEFIT OF STATUTE.

Andrew v. Bridgman (1908) 1 K.B. 596. In this case the Court of Appeal (Cozens-Hardy, M.R., and Moulton and Farwell, L.JJ.), have affirmed the judgment of Channell, J. (1907) 2 K.B. 494 (noted ante, vol. 43, p. 731). By the Conveyancing Act, 1892, it is provided that a covenant in a lease not to assign without consent of the lessor shall, unless the contrary be expressed, be deemed subject to a proviso that no fine or sum of money in the nature of a fine shall be payable for giving such consent. The covenant in question in this case contained no provision to the contrary, but the lessor on being applied to for his consent, refused to give it except on the terms of being paid £45. This the lessee paid under protest, and the present action was brought to recover it; but the action failed, because the court held, that the lessee was under no obligation to have paid it, but on the consent being improperly refused, he might, under the statute, have made the assignment without leave; but there was nothing in the statute to prevent his making a bargain with the lessor, and, in fact, waive the benefit of the statute, as he had done.

INSURANCE—WARRANTY OF FREEDOM FROM CAPTURE—CAPTURE OF SHIP—SUBSEQUENT WRECK—CONDEMNATION—TITLE OF CAPTORS.

In *Andersen v. Martin* (1908) 1 K.B. 601 the judgment of Channell, J. (1907) 2 K.B. 248 (noted ante, vol. 43, p. 620), has been affirmed by the Court of Appeal (Cozens-Hardy, M.R., and Moulton and Farwell, L.JJ.). The action was brought on a policy of marine insurance which contained inter alia a warranty against capture. The vessel had been captured by a belligerent, but before condemnation by a Prize Court, she became a total wreck. Channell, J., had held that though the capture of the vessel did not, until condemnation by a Prize Court, divest the owner's property, yet, when condemnation did take place, the title of the captors related back to the time of the capture.