

REVIEW OF CURRENT ENGLISH CASES.

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CONFLICT OF LAWS—CONTRACT TO ISSUE DEBENTURES—FLOATING CHARGE ON FOREIGN LAND—CLOG ON REDEMPTION—CHARTERED COMPANY—BREACH OF CHARTER—ULTRA VIRES.

British South Africa Co. v. De Beers Con. Mines (1910) 2 Ch. 502. In this case the Court of Appeal (Cozens-Hardy, M.R., and Farwell and Kennedy, L.JJ.) have affirmed the judgment of Eady, J. (1910) 1 Ch. 354 (noted ante, vol. 46, p. 303). The facts were that the defendant company had advanced to the plaintiff, a South African company, a large sum of money on the security of debentures which were a floating charge on the plaintiffs' property, and had stipulated for, and the plaintiffs had granted them, an exclusive right to work certain diamondiferous ground belonging to the plaintiffs as part of the security for the loan. The loan had been paid off, but the defendant company claimed to be still entitled to an exclusive right to work the diamondiferous ground. The plaintiffs claimed a declaration that the agreement was a clog on redemption and was void, or at all events was now at an end. The defendants contended that the "clog doctrine" did not apply to lands in South Africa, and that the case must be governed by the law of the situs of the land. For the plaintiffs it was argued that the clause was void not only on the ground of its being a clog on redemption, but also on the ground that it was ultra vires, because the plaintiffs were prohibited by their charter from granting a monopoly; that the contract was made in England and was governed by English law. The Court of Appeal upheld the plaintiffs' contention that it was an English contract and was therefore governed by the English law, and that the agreement constituted a clog on redemption, notwithstanding that the land affected was in a foreign country, where the doctrine did not prevail. It, therefore, became unnecessary to consider the question of ultra vires.

LANDLORD AND TENANT—COVENANT NOT TO ASSIGN WITHOUT LEAVE—CONSENT NOT TO BE WITHHELD FROM "A RESPECTABLE AND RESPONSIBLE PERSON"—LIMITED COMPANY A "PERSON."

In *Wilmott v. London Road Car Co.* (1910) 2 Ch. 525, it may be remembered that Neville, J., held (1910) 1 Ch. 754 (noted ante, vol. 46, p. 453) that a limited company could not be "a