

REVIEW OF CURRENT ENGLISH CASES.

(Registered in accordance with the Copyright Act.)

FIDELITY BOND—SURETY—DEFAULT OF PRINCIPAL—PENAL INTEREST ON DEFALCATION—LIABILITY OF SURETY.

Board of Trade v. Employers' Liability Assurance Corporation (1910) 2 K.B. 649. This was an action on a fidelity bond given by the defendants to secure the due discharge of his duty by a trustee in bankruptcy, or if he should fail therein that the surety should "make good any loss or damage occasioned to the estate by any such default of the bankrupt." The principal improperly retained £50 in his hands for some years, and on his default being discovered he was removed from office, and pursuant to the Bankruptcy Act he was surcharged with interest at the rate of 20 per cent. per annum on the sum improperly retained. The principal made good the £50 but not the interest, the present action was brought to recover the interest against the sureties. Phillimore, J., who tried the action held that the defendants were liable, but the Court of Appeal (Williams, Moulton and Buckley, L.JJ.) reversed his decision, holding that the 20 per cent. interest was in the nature of a penalty which in a certain event the principal became liable to pay, but it was not covered by the language of the bond, so as to make the surety liable therefor, the principal on failure to pay this interest not being a breach of his duty as a trustee, and the penal interest for which he became liable not being a loss to the estate.

COMPROMISE—SOLICITOR'S AUTHORITY TO COMPROMISE ACTION—ASSENT OF CLIENT GIVEN UNDER MISUNDERSTANDING.

In *Little v. Spreadbury* (1910) 2 K.B. 658. In this action before it came on for trial, the solicitors of the parties arrived at a settlement and a memorandum thereof was signed by the solicitors. This memorandum was read over to the defendant by her solicitor or his son and the defendant seemed to assent to it, and thereupon the action was by consent of both sides struck out. It turned out afterwards that though the defendant seemed to