

PRINCIPAL AND AGENT—SECRET PROFIT RECEIVED BY AGENT WITHOUT FRAUD—COMMISSION.

*Hippisley v. Knee* (1905) 1 K.B. 1 was an action by principals against their agents to recover from the agents certain secret profits received by the agents in the shape of discounts on printing and advertising charges incurred for the principals, and also the commission paid to the agents, on the ground that it had been forfeited by reason of the agents' acceptance of the secret profit. The agents had been employed by the plaintiffs to sell certain pictures for a specified commission, and their expenses out of pocket. Among the expenses out of pocket were certain charges for printing and advertising, for which the agents had been allowed a discount from the ordinary retail charges, which discount would not, however, have been allowed to the plaintiffs had they themselves incurred the expense, but was allowed by a custom of the trade to the defendants as auctioneers. The defendants had charged the plaintiffs the gross amount of these charges without allowing any rebate, and on the plaintiffs subsequently discovering that the defendants had been allowed a discount, the action was brought not only to recover the amount of the discount, but also the commission, which they claimed the defendants had forfeited. *Andrews v. Ramsay* (1903) 2 K.B. 635 (noted ante, vol. 40, p. 111) was relied on by the plaintiffs, but the Divisional Court (Lord Alverstone, C.J., and Kennedy and Ridley, JJ.) considered that case distinguishable, and though the plaintiffs were entitled to the secret profit, they could not recover the commission also, on the ground that in this case the secret profit had been received by the agents without fraud, and under a mistaken notion as to their rights, and the profit in question not being connected with the contract which the agents were employed to make, or the duty they were called on to perform.

LIFE INSURANCE—POLICY — WARRANTY AGAINST SUICIDE—CONDITION PRECEDENT—POLICY FOR BENEFIT OF THIRD PARTY.

In *Ellinger v. Mutual Life Ins. Co.* (1905) 1 K.B. 31 the plaintiffs appealed from the judgment of Bigham, J., (1904) 1 K.B. 832 (noted ante, vol. 40, p. 454). The action was on a policy of insurance taken out by the insured for the benefit of a third person as security for a debt: the application stated that it was the basis and a part of the contract that the insured would not commit suicide whether sane or insane, and the policy stated that it was made in pursuance of the application which was thereby made a part of the contract. The applicant committed suicide whilst insane. The plaintiffs contended that the term in