

LEGISLATION AS TO LEASES.—LARCENY OF ANIMALS.

Where a lessor is proceeding by action, or otherwise, to enforce a right of re-entry . . . or has within the last two preceeding months re-entered under any such right without action, the lessee may . . . apply to the Court for relief, and the Court may grant or refuse relief, *i. e.*, [the remaining words follow those of Lord Cairns's clause]: provided that the costs of the action shall be payable on the same principle as if the application for relief were an action for the redemption of a mortgage.

Both the bills alike provide that they are to 'apply to leases made either before or after the commencement of this Act, and are to have effect notwithstanding any stipulation to the contrary;' also that they are to apply although the proviso has been inserted in the lease in pursuance of any statute; but Lord Cairns's bill does not contain a provision which appears in the Leases Bill that 'no effect shall be given' to a proviso for re-entry upon breach of a covenant that all assignments and underleases shall be prepared by the lessor's solicitor.

And now, which is the better measure, and why? We cannot but think that the first proviso of Lord Cairns's clause that there is to be no re-entry without prior notice and claim of reasonable compensation is a very valuable one, and has been most unwisely omitted from the Leases Bill. The qualification of the barbarous 'common form' proviso for re-entry by a 'common form' stipulation for notice has for many years been a customary insertion on behalf of the lessee's solicitor; and we very much doubt whether a solicitor ought to allow his client to accept an absolute proviso for re-entry without a caution as to its possible results. The same remark would apply to trustees and mortgagees. Indeed, the term 'leasehold security,' when applied to the mortgage of a lease containing an absolute proviso for re-entry, is a delusion. However this may be, we think the stipulation as to notice is a highly desirable one to insert in the bill, upon the simple ground that it will lead to the difficulties being settled by correspondence between the parties—which will probably result in a new lease—instead of necessitating an immediate application to the Court.

We observe that neither bill contains, as former bills did, any exceptions. Former bills

contained savings for the breach of a covenant against assignment without license, and for agricultural tenancies. We fail to see any reason for excepting agricultural tenancies from the operation of the bill; but strong reasons might be said for keeping out of its scope the breach of the covenant not to assign or underlet without license—a breach of such a kind being, it would be said, a 'wilful breach.' On the whole, however, we think that these arguments ought not to prevail. Cases may easily be imagined in which, from an impossibility of discovering the whereabouts of the ground landlord, there must be either an assignment without his leave, or no assignment at all.

It is only necessary to add that both measures provide a kind of code of the law as to 'relief against forfeiture,' except as to non-payment of rent, repealing the enactments 22 & 23 Vict. c. 35, ss. 4-9, and 23 & 24 Vict. c. 126, s. 2, by which the Court has power to give relief against a forfeiture caused by failure to insure. We see no reason for excepting the law of relief against forfeiture for non-payment of rent from the general consolidation, and hope that the promoters of the Leases Bill will see their way to supplying this defect."

SELECTIONS.

LARCENY OF ANIMALS.

IN *Rex v. Mann*, Supreme Court of the Hawaiian Islands, April, 1881, the defendant had been convicted of stealing turkeys. Two questions arose: whether the turkeys in question were "wild animals," and thus not subject of larceny; and whether ownership had been proved. The court, Judd, J., said: "The essential facts are as follows: On the mountain range of this island, back of Wai-alua, called the Waianæ mountains, are numbers of turkeys. These birds were brought to this country so long ago that there is no remembrance existing as to the exact time when or by whom they were imported. These birds are now in a wild state, afraid of man, breeding in the unfrequented parts of the mountain and bush country, and have been hunted down and caught by devices, precisely