

itors then claimed to be paid interest on the deposits; and it was shewn that in the course of dealing between the company and its customers, interest at 4 per cent. was paid on deposits. It was contended by the liquidator that the acceptance of the final dividend amounted to an accord and satisfaction; but Buckley, J., held that there was an implied contract on the part of the company to pay interest, and that the creditors were entitled to receive out of the surplus, interest from the date of the winding-up until the date of the payment of the second dividend, and that the form of the receipt for the second dividend did not preclude them from setting up the claim to interest, on it appearing that the company was solvent.

VENDOR AND PURCHASER—IMPLIED COVENANTS FOR TITLE—BREACH OF IMPLIED COVENANT—DAMAGES—CONVEYANCING AND PROPERTY ACT, 1881 (44 & 45 VICT. c. 41), s. 7—(R.S.O. c. 119, s. 17).

*Great Western Railway Co. v. Fisher* (1905) 1 Ch. 316 was an action to recover damages for breach of an implied covenant for title on the sale of land. The land in question formed part of a building estate, on which a road had been laid out, and parts previously sold according to a building scheme. The bargain between the vendor and the purchaser was, that the purchasers were to have the road free from any rights of easement of any third parties, but the deed contained no express covenants for title, but the defendant by the deed purported to convey as beneficial owner in fee simple. On the completion of the purchase the purchasers proceeded to block up the road, whereupon they were sued for damages by a previous purchaser under the building scheme. This claim was referred to arbitration, and resulted in an award in favour of the claimants for £510; the plaintiffs still disputing their liability, the claimant brought an action in which the plaintiffs were held liable to pay the £510 and interest, and the costs of the action and arbitration, which they accordingly paid; and the present action was brought to recover over against their vendor the amounts so paid, together with the plaintiffs' own cost of the proceedings. Buckley, J., held that under the Conveyancing and Property Act, 1881, s. 7 (see R.S.O. c. 119, s. 17), there was an implied covenant by the vendor against incumbrances, and that under it the plaintiffs were entitled to recover the £510 and interest thereon, and subsequent interest since payment by the plaintiffs, and also their own and the claimants' costs of the arbitration; but that the