

and the Court, therefore, gave the petitioner leave to prove the marriage by an affidavit of an ex-Governor of the colony, who, although not a member of the legal profession, deposed that he was conversant with the laws and ordinances in force in the colony.

SPECIFIC PERFORMANCE—VENDOR AND PURCHASER—PROPERTY USED AS A DISORDERLY HOUSE AT TIME OF SALE.

Hope v Walter (1900) 1 Ch. 257, is an instance of the way in which the Court acts in granting or refusing specific performance of a contract for the sale of land. In the present case the property was described in the particulars of sale as 'an eligible freehold.' After the contract had been made, the purchaser discovered that the property was being used by the tenant in possession as a disorderly house. Neither party before the sale knew of this, and the tenant was guilty of a breach of an express covenant in so using the premises. Cozens-Hardy, J., thinking the case governed by *Lucas v. James* (1849) 7 Hare, 410, thought the vendor entitled to specific performance, (1899) 1 Ch. 879, (see ante, vol. 35, p. 668); but the Court of Appeal (Lindley, M.R., and Williams and Romer, L.JJ.) have reversed his decision, because under the Criminal Law Amendment Act, 1885 (48 & 49 Vict., c. 69), s. 13 (3), which does not appear to have been adopted in Canada, a lessor becomes criminally liable if he knowingly permits the demised premises to be used by his tenant as a brothel. In *Lucas v. James* the objection of the purchaser was that there was a disorderly house near the property which was the subject of the contract, and that was held to be no ground for refusing the vendor specific performance, and, without saying whether that decision was right or wrong, the Court of Appeal considered it did not cover the facts of the present case. It might be a question in Ontario how far *Hope v. Walter* would be binding, having regard to the decision being based on the statute above referred to; but notwithstanding that no criminal liability might attach to a purchaser, it might be still held that it would be, to use the language of the Master of the Rolls, "contrary to those principles of justice and fairness by which this Court is always guided in exercising that extraordinary jurisdiction," to compel a purchaser specifically to perform a contract under such circumstances.