

or to stipendiary magistrates. Consequently where costs have been incurred in criminal proceedings at Quarter Sessions, and an agreement for the payment thereof has been made under section 4 of the Act, the High Court has jurisdiction to set aside the agreement and to order the costs to be taxed. (Stirling J.)

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SCOTT v. Alvarez. C. A., 12 R., Oct., 76. Vendor and Purchaser—Condition of Sale requiring Purchaser to assume Facts—Absence of Receipt Clause or Receipt endorsed—Absence of Costs for Title.—Information obtained *aliunde*—Doubtful Title—Bad Title—Return of Deposit—Specific Performance. Upon a sale of leasehold property under a condition which provided that the purchaser "shall not make any objection or requisition in respect of the intermediate title to the premises between the granting of the lease and the execution of the said assignment, notwithstanding any recital of or reference to such title contained in the assignment, or any subsequent document of title, but shall assume that the said assignment vested in the assignees a good title for the residue of the said term," the purchaser cannot, where there is no evidence of *mala fides*, object to the title on the ground that the matters disclosed by the abstract raises suspicion amounting perhaps to a doubtful title. In *re Sandbach and Edmondson's Contract* followed. Where a purchase deed does not contain a receipt clause for the purchase-money in the body or deed, or a receipt endorsed, the purchaser must pay the expenses of proving that there is no vendor's lien for unpaid purchase-money should he insist upon such proof. It is no objection to title that some of the deeds do not contain covenants for title if a good legal estate passed, and there is a covenant against incumbrances. A purchaser who has bought land under the condition above set out cannot resist specific performance, and *a fortiori*, cannot recover his deposit on the ground of evidence obtained by him *aliunde* that the title between the dates specified is a doubtful one. Nor can such a purchaser recover back his deposit even on

evidence obtained *aliunde* that such title, though in accordance with the conditions of sale, is not even a good holding title, but is manifestly a bad one; but the remedy by specific performance being a matter of discretion, the Court will not in the latter case specifically enforce the contract.

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In *re Goodenough*, *Marland v. Williams*, 1895, 2 Ch. 537, 13 Q., Sept., 112, and *In re Duke of Cleveland's Estate*, 1895, 2 Ch., 542, are two cases in which Kekewich, J., has determined that the court, in future, in apportioning a fund between capital and income, will only allow interest at the rate of 3 per cent., instead of 4 per cent., as the basis of calculation. In the latter case a sum of money was paid out of court under an erroneous order, and, upon the order being subsequently varied, it was recovered, but without interest, and it was held that the amount so recovered ought not to be treated as between the tenant for life and remainderman as all capital, but that a fair proportion of it ought to be paid to the tenant for life as income, and, in estimating the amount so to be paid, a 3 per cent. basis must be adopted. The fall in the value of money in Ontario seems to call for some reduction in the statute rate here from 6 per cent. to some lower figure.

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In *McEntire v. Crossly*, 1895, A. C. 457, 11 R., July 24, which was an appeal from the Irish Court of Appeal, the legal effect of a hire and purchase agreement had to be considered by the House of Lords. By the agreement in question the "owners and lessors" of a gas engine agreed to let and the "lessee" agreed to hire the engine at a rent, payable by instalments, amounting in the aggregate, to £240, and upon payment in full the agreement was to be at an end, and the engine was to become the property of the lessee, but until payment in full it was to remain the sole property of the lessors. It also provided that in case of failure to pay any instalment, or if the lessee should become bankrupt, the lessors might elect either to recover the full