

ing himself of information obtained without a resort to such inquiries or requisition. In § 1329 of the treatise of Lord Justice Fry on Specific Performance (5th ed.), we find the following statement:—

“The cases on the question whether and how far the inquiry into title has been limited fall into two categories; first, where the stipulations of the contract preclude the purchaser from making requisitions upon or inquiries from the vendor as to his title which relieves the vendor from the necessity of complying with or answering any such requisition or inquiry, but does not prevent the purchaser from shewing, by any means in his own power, that the vendor's title is defective; and secondly, cases in which the stipulations preclude the purchaser, not only from making such requisitions upon and inquiries from the vendor, but from making any inquiry or investigation about the title anywhere; which may quite validly be stipulated, and will generally, provided that the stipulation be clear, altogether preclude inquiry and investigation for every purpose.”

The above passage is somewhat expanded from that which was printed in the first edition of the work (dated 1858), and which, though not specifically referred to, was presumably in the mind of Hall, V.-C., when he made the following statement: “The cases are divisible into two classes: first, cases in which the terms of the contract preclude the purchaser from making requisitions upon the vendor for his title; and secondly, cases in which they preclude him not only from making inquiries from the vendor as to his title, but from making any investigation anywhere about the title.” *Jones v. Clifford* (1876), 3 Ch. D. 790.

5. Same subject. Stipulations construed as entitling the purchaser to avail himself of information obtained aliunde.—Of the cases assignable to the first of the categories enumerated in the preceding section, some have been concerned with the purchaser's right to take advantage of defects disclosed by the abstract of title.

In *Waddell v. Wolfe* (1874), L.R. 9 Q.B. 515, one of the conditions of a sale by auction of certain leasehold premises was as follows:—“The abstract of title shall commence with an indenture of underlease” of a specified date, “being an underlease from W. S. to W. B. S., and it shall form no objection to the title that such indenture is an underlease; and no requisition or inquiry shall be made respecting the title of the lessor or his superior landlord, or his right to grant such underlease.” The defendant having agreed to purchase the premises ascertained from the abstract of title that W. S. had, before the execution of the underlease, mortgaged the premises. *Held*, that the defendant was not precluded by the condition from taking the objection that, as the legal estate was outstanding, W. S. had no power to grant the underlease, *Blackburn, J.*, said: “Does it sufficiently appear that the parties have, by their agree-