ENGLISH CASES.

EDITORIAL REVIEW OF CURRENT ENGLISH DECISIONS.

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VENDOR AND PURCHASER—SPECIFIC PERFORMANCE—EQUITABLE SET-OFF.

Phillips v. *Howell* (1901) 2 Ch. 773, was an action for specific performance. The defendant, the vendor, was administratrix of an intestate, and was ordered to pay the plaintiff's costs. The defendant had a beneficial one-fourth interest in the intestate's estate, and it was alleged there were no unpaid debts except a mortgage, and that the purchase money payable by the plaintiff represented the whole of the intestate's estate. The plaintiff asked to have inserted in the judgment a direction that he should be at liberty to deduct his costs due from the defendant from so much of the purchase money in his hands as represented the defendant's beneficial interest therein; but Byrne, J., refused to make the direction on the ground that it would be impossible to ascertain the amount of the defendant's beneficial share in the purchase money, in the present suit, so as to bind other parties interested in the intestate's estate, and that the debt due to the defendant was due to her in her representative capacity, and therefore in another right, as against which the plaintiff could not be allowed to bring into account all or any part of an unascertained sum to which the defendant might be beneficially entitled on the administration of her intestate's estate.

POWER—EXECUTION—INTENTION—"AFTER DEATH OF A," READ "SUBJECT TO A'S INTEREST."

In re Shuckburgh, Robertson v. *Shuckburgh* (1901) 2 Ch. 794, a husband by his marriage settlement had a power of appointment over the settled estate among his children. The estate was settled in favour of himself and wife, and the survivor of them, for life, but if the wife remarried her interest was cut down to one-half. The husband died, having by his will appointed the estate "after his wife's death." She subsequently remarried, and it was held by Farwell, J., that the moiety of the estate then set free passed under the power, the Court finding on the face of the will an intention to appoint the whole fund subject to the wife's interest.