

DIGEST OF ENGLISH LAW REPORTS.

ation as to the acreage, it did not estop the company from rescinding on the ground of deficiency of acreage.

The same relief was asked against the other defendants as against A. One made answer that the suit was improper, another that he was improperly made party. *Held*, that if they were not necessary, they were proper parties; that no relief, in the shape of repayment, could be given against them, but that as they had not merely submitted to any order that the court should make, they would not be allowed costs (reversing the decision of MALINS, V.C.)—*Aberaman Ironworks v. Wickens*, Law Rep. 4 Ch. 101.

See COVENANT, 1, 2; PRIORITY, 1; SPECIFIC PERFORMANCE; TRUST, 2; VENDOR'S LIEN.

VENDOR'S LIEN.

A vendor of land to a railway company, who have used it for their railway, is entitled to a lien on the land for the unpaid purchase-money, and to have the lien enforced by a sale, though the railroad be made and ready for traffic.—*Wing v. Tottenham and Hampstead Junction Railway Co.*, Law Rep. 8 Ch. 740.

VESTED INTEREST.

1. Testator gave a fund on trust to pay the income to A. for life, and after the death of A., leaving issue, on trust to pay and transfer both principal and interest to the children of A., in equal shares, and if but one child, then to such child, to be paid to them, if sons, at twenty-one, and if daughters, at twenty-one or marriage, "with benefit of survivorship;" and in case there should be no children of A. at his death, or if all such children should die before twenty-one or marriage, then over. Of the five children of A., who attained twenty-one, two, B. and C., died in A.'s lifetime, while three, D., E., and F., survived him. *Held*, that B. and C. took vested interests, and that their representatives were entitled to shares with D., E., and F.—*Cornock v. Warriman*, Law Rep. 7 Eq. 80.

2. A testator gave his real and personal estate to trustees, on trust, to invest the annual proceeds of the real and personal estate during the time that any person beneficially interested in these estates should be under twenty-one, in order to accumulate the personal estate, and further to hold the whole property in trust for the first or eldest son then living of his daughter C., during his life, and after his death for his first and other sons in tail, with remainders over to C.'s other

children. The will contained a proviso that such person as should be entitled to an estate tail in possession in the real estate should not be absolutely entitled to the personal estate till he should attain twenty-one; that the personal estate should absolutely belong only to such person as should first attain twenty-one, and become entitled to an estate tail in possession in the real estate, and that in the mean time the personal estate should remain subject to the trusts declared. In 1816, Lord Eldon declared the direction to accumulate void for remoteness. At that time C. had several children. H., the eldest son, was, under the decree, entitled to, and had been in possession of, the rents and proceeds of the real and personal estate, and was still alive. His eldest son had died under twenty-one, leaving two brothers surviving, the elder of whom, E., had attained twenty-one. *Held*, that E., who was in possession of the first estate of inheritance, was, subject to his father's life-interest, absolutely entitled to the personal estate.—*Holloway v. Webber*, Law Rep. 6 Eq. 523.

See BOND, 1.

VOLUNTARY CONVEYANCE.

A creditor under a voluntary *post obit* bond is as much entitled to the benefit of the statute of the 18 Eliz. c. 5, against fraudulent conveyances, as any other creditor.—*Adames v. Hallett*, Law Rep. 6 Eq. 468.

See FRAUDULENT CONVEYANCE.

VOTER.

1. At the election of town councillors there were four vacancies and five candidates. B., one of the four who had a majority of votes, was returning officer, and therefore ineligible. *Held*, that mere knowledge by the electors who voted for B. that he was returning officer, did not amount to knowledge that he was disqualified in law as a candidate, and that therefore the votes were not thrown away, so as to make the election fall on the fifth candidate.—*The Queen v. Mayor of Tewkesbury*, Law Rep. 8 Q. B. 629.

2. A man cannot be convicted of personating "a person entitled to vote," if the person personated be dead at the time.—*Whitley v. Chappell*, Law Rep. 4 Q. B. 147.

WARRANTY.

A., a manufacturer, agreed to supply to B. a quantity of shirting according to sample, each piece to weigh seven pounds. The shirtings were delivered and accepted, but it was afterwards found that the weight was made