

promissory notes as against the principal and six per cent. interest. Thereupon the mortgagee appealed, and it was *Held*, (1.) (Reversing the decision of the Court below) that the mortgagor was not entitled to credit for the amount so paid. [SPRAGUE, V. C., dissenting.]

And (2.) That although the Act then in force (16 Vic. ch. 80) allowed parties to lend money at any rate of interest that might be agreed upon, still, in the event of their subsequently having to sue to enforce their securities, they could not recover more than the sum actually advanced and six per cent. *Stimson v. Kerby*, ante, vol. vii., page 510, over-ruled.

Quinlan v. Gordon, *Appendix*, i.

VALID CONSIDERATION.

See "Deed of Settlement."

VARYING DECREE.

A bill was filed by a creditor against his debtor, to obtain the benefit of a vendor's lien, and the decree declared the lands (four parcels) subject to the lien for unpaid purchase money, and directed an account to be taken of what was due to the vendor and also to the plaintiff and other incumbrancers. It appeared that to one of the four parcels the vendor had not any title; and that the purchase had been of all at a gross sum of £2,000. After the accounts had been taken, one of the purchasers filed a petition praying for a reference back with a view of obtaining an abatement of the purchase money on account of such defect; but, as this would have been in effect a varying of the decree, which could only be obtained upon a rehearing, the relief was refused; and whether, after the delay that had occurred and the proceedings that had been taken, it would have been proper to grant leave to rehear. *Quære*.

O'Donohue v. Hembroff, 350

[ON APPEAL].

See "Practice," 5.

VENDOR AND PURCHASER

Where a vendor brought ejectment, and turned the heirs of the purchaser out of possession, he was held to have disabled himself from coming to the Court for specific performance, and could only do so in order to bind their interests in such a manner as to render the property saleable. Under such circumstances, the plaintiff having placed himself in a false position by reason of the proceedings at law, the Court deprived him of his costs up to decree, but gave him his costs subsequent thereto.

Hawn v. Cashion, 518.