

VENDOR'S LIEN.

An interesting branch of this subject was recently discussed in a case in the Exchequer Court of Canada.

Under the law of England and that of the United States, where lands are taken in invitum, and in the exercise of the right of eminent domain, the owner of such lands has a vendor's lien for the unpaid compensation money. In England, however, it has been held that where the statute authorizing the expropriation declares that, upon the formalities prescribed for the taking being duly executed, the lands shall absolutely vest in the person or corporation expropriating, no lien subsists in such a case (See *Wing v. Tottenham and Hampstead Junction Ry. Co.*, 37 L.J. Ch. at p. 655; *Browne and Allan on Compensation*, p. 228, et seq.). In the United States, on the other hand, the principle is established by the authorities that where the statute permits the title or right to possession to vest before the payment of the compensation money, such title or right is subject to the obligation of making just compensation, which is in the nature of a vendor's lien enforceable in equity in the usual way. (See *Lewis on Eminent Domain*, s. 620; *Evans v. Missouri, Iowa & Nebraska Ry. Co.*, 64 Mo. 453; *Dayton, Xenia & Belpre Ry. Co., v. Lawton*, 20 Ohio 401).

In *Walker v. Ware, Hadham and Buntingford Ry. Co.*, 35 L.J. Ch. 96, where the lands had been taken under the Land Clauses Consolidation Acts by the Great Eastern Railway Company, and, before full compensation paid therefor, had passed into the hands of the defendant company, the Court declared that they were subject to the lien of the original owner, and directed a reference to settle the amount of the compensation. Lord Romilly said (at p. 96) "I am of opinion that the Acts of Parliament which have been referred to do not deprive the vendor of his lien. The true construction of these Acts was never meant to be that the Company might take any lands upon paying into Court the amount of a valuation, and giving a bond, so as to deprive the vendor of his right to have the lands properly valued, or to deprive him of