

the vendor; and (2) that there be an appropriation of the purchase money and notice thereof to the vendor.

In an action on such a contract, where the vendor was to prepare the conveyance, and the purchaser was to take possession at once and pay interest from the taking possession, and the purchaser, having taken possession, had his purchase money ready to pay over and deposited it in a bank—at first to his own credit in his general account, but afterwards to the credit of a special account—of which he gave the vendor notice, and there was a delay of over two years in preparing the conveyance:—

Held, that the purchaser was bound to pay interest at the legal rate up to the time he deposited the purchase money to the credit of the special account, but thereafter only at such rate as he received from the bank.

Judgment of ARMOUR, C.J., varied. *Stevenson et al. v. Davis*, 642.

Sale of church property.—See CHURCH.

See SALE OF LAND.

VOTERS' LISTS.

See CONSTITUTIONAL LAW, 2—
PARLIAMENTARY ELECTIONS.

WARRANT.

Apprehension without.—See MALICIOUS ARREST AND PROSECUTION, 1.

WATER AND WATERCOURSES.

Riparian proprietors—User of stream—Reasonable user—Prescriptive right—Maintenance of dam for twenty years—Changed condi-

tions—Right of action.—Riparian proprietors are entitled to make a reasonable use of the water of a stream, to detain it and retard it within certain limits; but any user which inflicts positive, repeated and sensible injury upon a proprietor above or below is not to be considered reasonable.

And where the defendant and his predecessor, by discontinuing the use of the water during the hard frosts, although at a loss to themselves, might have prevented the damage complained of by the plaintiff, but did not so discontinue though requested to do so by the plaintiff:—

Held, that they were making an unreasonable use of the water and were liable for the damage done.

The fact that the defendant and his predecessors had maintained their dam, mill and race way in the same position for upwards of forty years, and had during all that time used the water as the necessity of their business required, did not give the defendant a right to use the water to the prejudice of the plaintiff; the defendant could not insist that he had gained a prescriptive right to injure the plaintiff without proving that he and his predecessors had for twenty years been making an unreasonable use of the water, to the injury of the plaintiff; the use which had formerly been reasonable becoming unreasonable because of changed conditions, within twenty years there arose for the first time a grievance which gave the plaintiff a right to complain, and he was not barred of that right by reason of his making no complaint until he began to be injured. *Ellis v. Clemens*, 227.

See MUNICIPAL CORPORATIONS, 2, 3.

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