pendent contract, and was not a contract to answer for the debt, default, or miscarriage of another, within the fourth section of the Statute of Frauds, and was therefore valid and binding on the owner, although not in writing; *Bond* v. *Treahy*. 37 U. C. R. 360, distinguished.

Held, also, that the sub-contractor was entitled to a lien for all work done under such agreement as a "contractor," and as to such work he was no longer in the position of a sub-contractor.

Held, also, that the sub-contractor acting under such an agreement, was not bound by clauses contained in the original contract with the dismissed contractor, providing for forfeiture, &c.

Held, also, that the non-production of an architect's certificate approving of the work done, though required by the contract with the dismissed contractor, as a condition precedent to payment, did not preclude the sub-contractor from recovering under the verbal agreement, provided the work was so done as to morally entitle him to such certificate, following *Lewis* v. *Hoare*, 44 L. T. N. S. 66. *Petrie* v. *Hunter et al.*, 233.

[Appealed and stands for argument.]

MINISTER OF JUSTICE.

Notice to.]—*See* CARRIERS.

MISREPRESENTATION.

See FRAUD AND MISREPRESENTATION.

MISTAKE.

Of title.]—*See* ASSESSMENT AND TAXES.

See IMPROVEMENTS.

MORTGAGE.

1. *Interest—Penalty.*]—Where a mortgage to secure the re-payment of money with interest at ten per cent. provided that, "should default be made in payment of the principal money or interest, or any part thereof respectively, then the amount so over-due and unpaid to bear interest at the rate of twenty per cent. per annum until paid.

Held, the said proviso was not invalid, or relieveable against on the ground of forfeiture. *Downey* v. *Parnell*, 82.

2. *Notice of payment — Parol agreement to pay higher rate of interest.*]—Where a mortgagee comes in under a decree for partition or sale and proves his claim, and consents to a sale he is not entitled to six months' interest, or six months' notice.

A parol agreement to pay a higher rate of interest than that reserved in the mortgage, is ineffectual to charge the land.

Totten v. *Watson*. 17 Gr. 235, and *Matson* v. *Swift*, 5 Jur. 645, followed. *Re Houston—Houston* v. *Houston*, 84.

3. *Opening foreclosure.*]—Where, after foreclosure, the rights of purchasers have intervened, any equitable claim which the mortgagor may have previously had to open the foreclosure, is, in this country at all events, to be considered forfeited.

Campbell v. *Holyland*, L. R. 7 Ch. D. 173 remarked upon, and *Platt* v. *Ashbridge*, 12 Gr. 107, followed. *Trinity College* v. *Hill et al.*, 348.

[Appealed and stands for argument.]

4. *Equity of redemption—Statute of Limitations in mortgage cases—*