

so recorded as aforesaid, and on the 24th day of April 1869, a writ of Fieri Facias was issued by the said Justice, on said judgment of said Groshen ~

That, after the said judgment of Allen S. Dugan had been so recorded as aforesaid, and on the 11th day of May, 1869, a writ of Fieri Facias was issued by the Justice aforesaid on said judgment of said Dugan ~

That, said Writs of Fieri Facias were immediately after the issuance thereof as aforesaid, duly levied upon the real estate of said James H. Waters, the sale of which is reported by the Mortgagee in this case. ~

That, after the levying of the said writs of Fieri Facias as aforesaid, and on the 31st day of May 1869 - And without any further proceedings being had upon said writs, except the levying of the same as aforesaid - the said judgments were both duly superseded, and judgments of supersedias duly rendered thereon by said Justice of the Peace. ~

That, after the superseding of said judgments as aforesaid, and on the 20th day of January 1870, the Mortgage to Henry Loreutz, mentioned in the proceedings in this case, and by virtue of a power of sale contained in which, the sale of the Real Estate reported in this case, was made, - was duly executed by said Waters and wife, and the said Mortgage duly recorded ~

That, afterwards, on the 9th day of February 1870, the Mortgage to Simon C. Simmons (a copy of which is filed in this case, marked Exhibit A) by which the Real Estate, the sale of which is reported in this case, was mortgaged to said Simmons, was duly executed, acknowledged and recorded. ~

James M. Sherry
Atty for Groshen & Dugan

George H. Shelman
Sol for S. C. Simmons

Filed August 13th 1870 ~

Courts Open
& Order re

Henry Loreutz
Mortgagee
On
Petition

No 3563 Equity
In the Circuit Court for Frederick County in Equity ~

May Term 1870

This case comes before the Court on Objections to the Auditor's Reports and agreed Statement of facts as filed ~

The Arguments of the Solicitors were addressed to the question, whether under the said Statement of facts, the judgments and liens of Allen S. Dugan and George S. Groshen, were liens on the property sold by said Loreutz, prior to and at the time of the execution of the Mortgages to Henry Loreutz and Simon C. Simmons ~

At this stage of the case, I do not consider it necessary to express any opinion on this question, as the only matter for me to determine, is, how the fund reported by the Mortgagee shall be distributed. ~

If these claims of Dugan and Groshen were liens at the time of the sale, they are entitled to no part of the fund in Court until all subsequent liens are satisfied, because the Mortgagee sold the property subject to all liens prior to his Mortgage. ~ If they were not liens at that time, they can only come in for a part of this fund after liens subsequent to Loreutz's Mortgage have been allowed. The claims now filed are those of Edward A. Barker and Simon C. Simmons, neither of which has been properly authenticated or proved; and as there may be other subsequent liens outstanding, and