

sent to the auditor to state a final account as required by the order of the 24th of May, 1828.

## 443

\* JONES v. JONES.

## EXECUTION.—JUDGMENT LIENS.

Land was not liable to be taken and sold to satisfy a debt due to a citizen, until made so by statute; but it might always be taken in execution to satisfy a debt due to the State; for which it is bound, by Act of Assembly, from the day of the institution of the suit.

Under a *fiery facias* levied upon the land of the defendant in his life-time, it may be sold after his death.

The nature and extent of a judicial lien upon real estate.

A lien fastens upon real estate from the date of the judgment. (a)

But no execution can be issued if the case has abated by the death of either party, until it has been revived.

There is no lien upon personal estate, as against third persons, until the *fiery facias* has been delivered to the sheriff.

By a sale of land under a *fiery facias*, it was held by the Chancellor, it was thereby converted into personalty; and that the surplus should be paid to the personal representatives of the deceased defendant; but the Court of Appeals held and ordered otherwise.

Land may by operation of several forms of judicial proceeding be converted into personal estate.

This Court cannot order a sheriff, who has in his hands money made under an execution from another Court, to bring it into this Court.

This was a creditors' bill, filed on the 14th of February, 1827, by Hiram Jones and Elizabeth Jones, against Martha Ann Jones and Emeline Jones, infant heirs of the late Jesse Jones, Richard Spencer, Jun'r, and Edward Brown.

The bill states, that the defendant Spencer, had, on the 1st of October, 1824, recovered two judgments against Jesse Jones, in his life-time, the one for \$230 with interest from the 23d of January, 1823, and costs; and the other for \$167 with interest from the 27th of May, 1824, and costs; which two judgments Spencer had assigned to this plaintiff Hiram Jones; that Jesse Jones was, at the time of his death, indebted, by a single bill, to the plaintiff Hiram Jones, in the sum of \$79.25, with interest from the 4th of September, 1823; that Jesse Jones, at the time of his death, was indebted to the plaintiff, Elizabeth Jones, by bond, in the sum of \$868.27, with interest from the 16th of April, 1825; that Jesse Jones died intestate, seized of about twenty acres of land, leaving a widow and the two infant defendants, his children and heirs-at-

(a) Approved in *Anderson v. Tuck*, 33 Md. 233. See *Coombs v. Jordan*, 3 Bland, 298.