

whereby he shall make all the parties to the said decree parties to the said bill, together with the creditors, or their legal representatives, who are named in the said deed of the 7th of April, 1810, in such a manner as to bring the interests of all the said parties, in the property mentioned in the said deed, fully before the Court. And it is further ordered, that the said Benjamin Mullikin pay unto the said plaintiff all the costs which have accrued upon his, the said Mullikin's, said petition, including this order, to be taxed by the register.

\*The defendant Benjamin Mullikin, on the 18th of November, 1828, filed a bill in the nature of a bill of review on oath, **515** against Thomas Harwood of Ben., Richard Duckett, executor of Daniel Clark, and others, in which, after reciting the various newly discovered facts and circumstances, upon which he had founded his claim to have the decree of the 2d of May, 1825, reviewed and corrected, he stated, that the creditors for whose benefit the deed of the 7th of April, 1810, was made, have a lien on the property conveyed prior to that of those who now claim as assignee of Hodges, &c. &c. To this bill the defendants put in their answers; and by consent, on the 20th of August, 1829, a decree was passed, directing the property to be sold, and it was sold accordingly: and the sale having been finally ratified, the auditor reported a distribution of the proceeds; to which exceptions were filed, and the case was submitted on notes by the solicitors of the exceptant.

BLAND, C., 16th August, 1831.—The voucher of the State's claim is evidently imperfect. The lien of the State commences with institution of the suit, not merely with the date of the judgment; *Jones v. Jones*, ante, 443; and therefore if the State has obtained these judgments, of the 13th of April, 1812, on suits instituted before the 7th of April, 1810, the State must have a preference over the creditors under the deed of that date. And, if both of the State's judgments were in suits instituted since that time, then it ought to be shewn for which the late Benjamin Harwood was liable, on his bond, as surety for the defendant Thomas Harwood of Ben.; because it is only for that amount the State can claim under the deed of the 7th of April, 1810. Therefore it is ordered, that this case stand over with the leave to explain and perfect the voucher of the State's claim; and that a copy of this order be sent by mail to the Attorney-General.

---

The voucher of the State's claim was corrected, by which it was shewn, that the State was entitled to a prior lien, which was allowed accordingly.