

But in making this arrangement great care must be taken not to lessen or impair, in any manner whatever, the obligation of the

by the Court, to make the estimate as of the day of the death of the deceased, he has considered the true intent and meaning of the order of the 7th of December, 1840, to be, that all the property must be valued as of that day, and endeavored accordingly, so to estimate it. There are three parcels of property, mentioned in the will of the deceased, not embraced by the testimony, viz: a house and lot in Easton, certain land in Allegany County, and certain land in Tuckahoe. These parcels have therefore been omitted by the auditor in all his calculations; but, if they should be hereafter found by the trustee, they might be sold, and the proceeds distributed amongst the several parties according to their respective rights and interests as they may, by that time, be established. The rest of the estate of the deceased is valued as of the time of his death in the following manner, viz:

First, Edward Gibson's part of Marengo at \$17,062.50; Second, Frances Tilton's part of the same at \$6,189.59; Third, Fayette Gibson's part of the same at \$7,075.00; Fourth, Clara Tilton's devise at \$5,681.00; Fifth, Anne Reynolds, wife of Joseph Reynolds, devise at \$9,315.00; Sixth, Fayette Gibson's devise sold to John W. Blake at \$10,500.00; Seventh, Harriet Bennett's devise at \$7,840.00. The whole estate valued at \$63,663.09.

According to the above estimate the mortgaged property ought to have paid, at the death of the deceased, the mortgage debt in the following proportions, viz: The whole mortgage debt with interest to the day of sale amounts, as per auditor's report filed the 8th of May, 1840, to \$13,739.55. First, Edward Gibson's part of Marengo would have paid for its proportion \$7,730.09; Second, Mrs. Tilton's part would have paid \$2,804.17; and Third, Fayette Gibson's part, sold to Lloyd, \$3,205.29.

In order to arrive at the proper value of the equity of redemption in these parcels of land the auditor has estimated the interest of Mrs. Rebecca Gibson, the widow of the deceased, and charged it upon that part of Marengo which was devised to Fayette Gibson, it being proved, that for the first few years after the death of her husband, she resided on that place. He finds from the testimony, that her interest is valued at one hundred and fifty dollars per annum; and from the proof, taken on the sixth day of March, 1841, that at the death of the deceased she was forty-nine years of age; which, according to the rule of this Court, would entitle her to nine hundred and thirty-seven dollars and fifty cents. This sum has accordingly been deducted from the equity of redemption of that part before apportioning the general debts, as an incumbrance not subject to any of them.

The equity of redemption on Marengo, after satisfying the mortgage debt, and subject to Mrs. Rebecca Gibson's interest under the will of the deceased, will be as follows, viz: First, Edward Gibson's part valued at \$17,062.50; deduct portion of mortgage debt \$7,730.09, leaving \$9,332.41; Second, Fayette Gibson's part sold to Lloyd, valued at \$7,075.00; deduct portion of mortgage debt \$3,205.29; and Mrs. Gibson's dower \$937.50, leaving \$2,932.21; Third, Mrs. Tilton's part valued at \$6,189.59; deduct portion of mortgage debt \$2,804.17, leaving \$3,385.42.

In order to assess upon Edward and Fayette Gibson's devise of Marengo a proper porportion of the complainant's claim, it will now be necessary to apportion that claim amongst the several devisees, assuming, that the mortgaged property is to contribute according to the value of the equity of redemption only as just settled. The complainant's claim is a note dated 18th October, 1817, payable five months after date, due 21st March, 1818,