

The rule that payments made generally, will be applied in a way most beneficial to the debtor, is further illustrated by the cases in which such payments have been applied in extinguishment of debts, bearing interest, where there were others due the same creditor not carrying interest. *Hayward vs. Lomax*, 1 *Vern.*, 24.

In this case, it is true, that it is not very important to the debtor, whether the payments are applied to the debts secured by the mortgage, or to those which are not so secured, as the surplus in either case will be insufficient to pay the other claims against him.

It is, however, of some importance to the other creditors, as the surplus applicable to the payment of their claims, will be diminished or enlarged, as the one, or other rule is adopted. The rule, as laid down in some of the cases is, that if a party is indebted on several accounts, and makes a payment, he may apply it to either, if he does not, the creditor may do so; and if neither does, the law will appropriate it according to the justice of the case. *United States vs. Kirkpatrick*, 9 *Wheat.*, 720; *Cremer vs. Higinson*, 1 *Mason*, 323. And it seems to the Chancellor, that the justice of the case, in view of the interests of third persons, as well as a proper regard to the rights of the debtor, requires that the payments should be applied to the satisfaction of the mortgage debt, and an order will be passed for that purpose.

The case is not now in a condition to enable the court to make a final disposition of the surplus among the various contending creditors. It would seem that the surplus should be assigned to those creditors according to the date of their respective liens, but the difficulty arises from the fact, that the different deeds and mortgages are for parcels of the premises mortgaged to Carroll of Carrollton, and the whole being sold in a lump, it is not easy to say how much of the purchase money should be awarded to the several parties. The case will, however, be sent to the Auditor, with directions, as far as practicable, to appropriate the surplus, after paying the mortgage debt of the complainant, to the satisfaction of the claims of the oth-