

er creditors ; due regard being had to the dates of the instruments under which they respectively claim, and the extent of property conveyed to each of them severally.

The Chancellor is also of opinion, that the sum which may be awarded to the parties mentioned in the petition of Josias Pennington, administrator of Richard Caton, and others, should be awarded to the heirs at law of said Caton, and not to his administrator.

[After this decision, further testimony was taken, relative to the value of the parcels of land respectively mortgaged to Neilson, and sold to Caton, as compared with the value of the whole tract covered by the prior mortgage to Charles Carroll of Carrollton. The parts conveyed to Caton contained together six hundred and fifteen acres, and those mortgaged to Neilson contained three hundred and seventy-four acres of land. As the mortgage debt of Carroll of Carrollton was a lien upon the whole tract, and Caton and Neilson had liens upon portions of it only, the question was, whether the lien of the former should be thrown upon the whole fund, and the two latter confined in their claims to so much of the residue as was proportionate to the value of the portions covered by their liens, compared with the value of the whole tract? or, whether the mortgage debt of said Carroll of Carrollton should be thrown, in the first place, upon so much only of the whole tract as was not embraced in these two subsequent deeds, and if that was not sufficient, then upon these two portions of the whole tract ; and thus leave the whole surplus to be applied proportionately to the claim of Caton and that of Neilson ?

Such of the facts as are necessary to explain the case, and not given in the previous report, are stated by the Chancellor in his opinion.]

THE CHANCELLOR :

This case standing ready for further directions on exceptions to the report of the Auditor, and having been submitted during the sittings of the term, by the solicitor of George Neilson, ad-