

that capacity; and this view of the object of the deed is confirmed by the evidence of the trustee himself, examined on the part of those sureties.

The Chancellor entertains a decided opinion, that the parties entitled to the proceeds of the estate of the deceased, would have a right to insist that the mortgaged property should be applied rateably to the payment of the debts to the bank, and the amount due by the trustee to the estate of Williams, and if so, that the sureties of the mortgagor in his bond as guardian—admitting that bond to be the responsible obligation—have the same right. Indeed, the counsel for the sureties in the trustee's bond were not understood to deny that the bank and the representatives of the deceased would have a right to insist upon the application of the mortgaged property, but they dispute the right of the sureties in the guardian's bond, for want of privity.

But if the devisees of Williams would have this right, then the mortgaged property must be regarded as a security held by them for the payment of their claim, and if so, it would seem to follow, that upon the payment of their claim by the sureties of their guardian, the latter would have a right to insist upon an assignment to them of those securities. *Cheesborough vs. Millard*, 1 *Johns. Ch. Rep.*, 130. The Chancellor will pass an order founded upon the views here presented; and being also of opinion that Mrs. Williams is entitled for life to the interest upon the entire proceeds of the estate sold, will likewise pass an order to that effect.

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[No appeal was taken from the order in this case.]