

be clothed by mere operation of law and upon principles of equity with the rights of an assignee, unless he has paid the *entire debt* of the creditor: a *pro tanto* assignment will not be allowed.

The trustees for the sale of mortgaged property postponed the sale, at the request of the owner of the equity of redemption, who stipulated that they should be allowed commissions and expenses for such postponed sale. —HELD, that this was a *personal* contract with the party, and gave the trustees no right to claim such commission out of the proceeds of sale.

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[The facts of the case are fully stated in the Chancellor's opinion.]

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#### THE CHANCELLOR:

The principal question in this case, which is brought before the Court upon exceptions to the report of the Auditor, relates to the right of claim No. 12 to be substituted to the amount thereof in the place of No. 1, which appears to be a prior lien upon the proceeds of the property sold under the decree of this Court.

Claim No. 1 is founded upon the mortgage of the property in question, by Rebecca Dorsey to the Neptune Insurance Company, bearing date on the 15th of April, 1843, to secure payment of the sum of \$8,000, and which, by the assignment of the mortgagee, has become the property of the Baltimore Life Insurance Company. The proceedings show that after the execution of this mortgage, to wit: on the 15th of February, 1844, Rebecca Dorsey, the mortgagor, for the consideration of five dollars, conveyed by deed to Edward H. Dorsey, her equity of redemption in the mortgaged premises, subject to the mortgage debt; and that on the 9th of March, of the same year, Edward H. Dorsey and his wife conveyed the same property to John Patterson, to secure the payment of the sum of \$3,574 28, due by him to Patterson, on a promissory note dated on the day of the date of the mortgage, payable in five years, and for the interest on said sum, for which interest notes were also executed. This mortgage, upon its face, was made subject to the preceding mortgage given by Rebecca Dorsey to the Neptune Insurance Company. The mortgage to Patterson