

agreement filed on the 30th of January last, are to be consolidated, that on the 25th of April, 1839, James Reardon and wife, of Harford county, conveyed to John Johns, the complainant in the first of the above-named cases, a tract of land, situate in the same county, by way of mortgage, to secure the payment of two thousand dollars in the manner therein mentioned.

This deed was on the same day acknowledged by the grantors before two justices of the peace for the city of Baltimore, their qualification duly certified by the Clerk of Baltimore County Court, under the seal of his office, on the following day, and was enrolled by the Clerk of Harford County Court among the land records of the last-named county, on the 18th of May of the same year. All these facts appear upon the face of the deed; and it is moreover in proof, that the grantors therein were, prior to and at the date of its execution and acknowledgment, and ever since have been and are now citizens of, and residing in, Harford county.

It further appears, that on the 8th of December, 1841, Reardon and wife executed to Otho Scott, the complainant in the last of the above-named cases, a mortgage of the same lands to secure the payment of five thousand dollars, as expressed in the deed, which mortgage was acknowledged before an associate judge of the sixth judicial district, on the day of its execution, and duly enrolled among the land records of Harford county on the 15th of the same month and year.

Bills have been filed upon these mortgages by the respective mortgagees, that by Johns against James Reardon alone omitting to make a party of his wife; that by Scott against Reardon and wife, and Johns, the prior mortgagee; and the material question raised and discussed in the written arguments of the solicitors of the parties is, which of the two mortgages is entitled to priority of payment, supposing the proceeds of the sale of the premises should be inadequate to pay both.

There can, of course, be no doubt that the mortgage to Johns is radically defective, not having been acknowledged before two justices of the peace of the county in which the