

JUDGMENTS—*Continued.*

the suit of the state, and the other at suit of a private citizen, that of the state standing first upon the docket. HELD—

That the judgment in favor of the state is entitled to priority in payment. *Wm. S. Green's Estate*, 349.

2. Where three years have elapsed after the rendition of a judgment, and no *fiat* has been entered upon the *scire facias*, the judgment must be presumed to be satisfied, or at least not in a condition to be enforced at law. *Hodges vs. Sevier*, 382.
3. Where mortgaged property has been sold under a decree of this court, and a judgment has been rendered against the mortgagor, prior to the mortgage, which had become dormant by lapse of time, and no *fiat* had been entered upon the *scire facias* to revive it, the judgment creditor cannot, in such condition of his judgment, contest with the mortgagee, in this court, the application of the proceeds of the sale of the mortgaged premises. *Ib.*

See PRACTICE IN CHANCERY, 48.

INJUNCTION, 8.

JURISDICTION.

See PRACTICE IN CHANCERY, 4, 14, 15.

ALIMONY, 1, 3, 5, 6, 7.

INJUNCTION, 5.

ORPHANS COURT, 3, 10.

LACHES.

See ASSIGNMENT, 5.

LAND OFFICE.

1. The recitals in an escheat warrant of the death of a party without heirs, are not *prima facie* evidence that the land is liable to escheat so as to throw the burden of proving the contrary upon the party who resists the patent. *Goodwin vs. Caton*, 160.
2. Where a certificate has been regularly returned on an escheat warrant, and has remained long enough in the land office to justify the issuing of a grant, a reasonable *prima facie* presumption arises that the land is escheatable. *Ib.*
3. An escheat grant is *prima facie* evidence that the land granted is liable to escheat. *Ib.*
4. An escheat grant will pass all the land comprehended within the true location of the tract escheated; it relates back, by operation of law, to the original grant, and is within the rule of law, of relation between grants and certificates. *Jones vs. Badley*, 167.
5. But this doctrine of relation is founded upon a principle of equity, and where an escheator *expressly* excepts from his survey a part of the tract escheated and does not pay for it, the doctrine does not apply. *Ib.*
6. As a general rule, lands which have escheated cannot be taken up under a common warrant as vacant lands. *Ib.*
7. But where no fraud or imposition has been practiced upon the state, and there were no improvements upon the land which the party had