

On the 13th of March 1828, *Isaac Owens, Benjamin Wells, and Martin Fenwick*, on behalf of themselves and the other creditors of the late *Jonathan N. Laughlin*, filed their petition in this case, in which they stated, that the deceased was indebted to *Owens* in the sum of \$95 60; to *Wells* in the sum of \$55 84, and to *Fenwick* in the sum of \$45 50. That the personal estate of the deceased was totally insufficient to pay his debts; and that the proceeds of the sale of his mortgaged real estate, sold under the decree in this case, was more than sufficient for the payment of the mortgage debt. Whereupon they prayed, that they, with the other creditors of the deceased, might be paid out of this surplus, &c.

14th March, 1828.—BLAND, *Chancellor*.—Where a bill has been filed against the heirs of a deceased mortgagor to obtain payment by a sale of the mortgaged property; (a) or where a bill has been filed to obtain a partition of an intestate's real estate among his heirs; (b) or where a deceased debtor's real estate has been

(a) *O'Brian v. Bennett*, ante, 86; *Latimer v. Hanson*, ante, 51.

(b) *SPURRIER v. SPURRIER*.—This petition, filed on the 21st of September 1810, states, that the late John Spurrier died intestate seized of a valuable real estate, which would not admit of division among his widow and children, some of whom were married and others infants, who are his heirs; all of whom are parties to this suit. Prayer, that the real estate may be sold and the proceeds divided. The answers admit these facts. Whereupon it was, on the 15th of March 1811, decreed, in the usual form, that the lands be sold, and they were sold accordingly.

After which Henry McCoy by petition stated, that the late John Spurrier was considerably indebted to him; that his real estate had been thus sold; and that his personal estate was insufficient to pay his debts. Prayer, that an order may pass notifying the creditors to exhibit their claims; and that his claim may be paid, &c.

18th September, 1811.—KILTY, *Chancellor*.—The trustee, for the sale of the real estate of John Spurrier deceased, is desired to give notice to the creditors to exhibit their claims in the chancery office before the first day of December next, by advertisement inserted three weeks in the *American*.

Henry McCoy by another petition stated, that his claim had been passed by the auditor and the Orphans Court; that the sales amounted to upwards of \$20,000, and the claims to not more than about \$11,000; that he was tenant to the purchaser, at the annual rent of \$1450; and he therefore prayed that his claim might be discounted through the purchaser his landlord.

23d March, 1812.—KILTY, *Chancellor*.—The Chancellor cannot direct the payment or discount of any claim before the ratification of the sale; and in order to its being made it is necessary to prove the publication of the conditional order of ratification passed September 9th 1811, which may be done by the certificate of the printer or the production of the newspapers. It is necessary also to produce the like proof of the publication of the order of September 18th 1811, on the petition of Henry McCoy for the creditors to exhibit their claims.

Archibald Dorsey by petition stated, that he was a creditor of the deceased, and