

The defendant *Benjamin Mullikin*, on the 18th of November, 1828, filed a bill in the nature of a bill of review on oath, against *Thomas Harwood of Ben.*, *Richard Duckett* executor of *Daniel Clark*, and others; in which, after reciting the various newly discovered facts and circumstances, upon which he had founded his claim to have the decree of the 2d of May 1825 reviewed and corrected, he stated, that the creditors for whose benefit the deed of the 7th of April 1810 was made, have a lien on the property conveyed prior to that of those who now claim as assignees of *Hodges, &c. &c.* To this bill the defendants put in their answers; and by consent, on the 20th of August 1829, a decree was passed, directing the property to be sold, and it was sold accordingly: and the sale having been finally ratified, the auditor reported a distribution of the proceeds; to which exceptions were filed, and the case was submitted on notes by the solicitors of the exceptant.

16th August, 1831.—BLAND, *Chancellor*.—The voucher of the State's claim is evidently imperfect. The lien of the State commences with the institution of the suit, not merely with the date of the judgment; (t) and therefore if the State has obtained these judgments, of the 13th of April 1812, on suits instituted before the 7th of April 1810, the State must have a preference over the creditors under the deed of that date. And, if both of the State's judgments were in suits instituted since that time, then it ought to be shewn for which the late *Benjamin Harwood* was liable, on his bond, as surety for the defendant *Thomas Harwood of Ben.*; because it is only for that amount the State can claim under the deed of the 7th of April 1810. Therefore it is ordered, that this case stand over with leave to explain and perfect the voucher of the State's claim; and that a copy of this order be sent by mail to the attorney general.

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The voucher of the State's claim was corrected, by which it was shewn, that the State was entitled to a prior lien, which was allowed accordingly.

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