

vouchers of their claims in the Chancery office within four months from the day of sale.

Under this decree the trustee sold the property as directed, which sale was finally ratified on the 15th of December, 1831. After which, the widow was allowed one-eighth of the net proceeds of sale in lieu of her dower; and no creditor having come in as notified, the residue of the proceeds of sale were afterwards, on the application and with the consent of all parties, ordered to be paid over to the intestate's surviving administrator to be by him administered in due course. And the case was thus closed here.

#### WORTHINGTON v. LEE.

A disclaimer should be explicit, and can only be received from a defendant who is subject to no liability.—All persons having an interest in the object of the suit should be made parties.—Under a *feri facias* at law against the mortgagor, the purchaser at the sheriff's sale of the equity of redemption for less than the mortgage debt, takes it as incumbered with the residue thereof.—A mortgagor who has not been legally divested of his whole interest must be made a party.—A mortgagor who has an interest in stating the account, or from whom any discovery may be drawn may be made a party.—Although this court cannot, in a suit upon the mortgage, after a sale of the mortgaged property, pass a decree for the payment of the balance thus shown; yet, if the mortgagor be dead, the plaintiff may so amend his bill as to have it treated as a creditor's suit.—It is not necessary to make the personal representative of the mortgagor a party to a bill to foreclose or sell; but upon the death of the mortgagee it is necessary to make both his heirs and personal representatives parties.

THIS bill was filed on the 17th of November, 1829, by *Marcella Worthington*, administratrix of *Thomas Worthington*, deceased, against *Temperance Lee*, *Thomas Lee*, *Joshua Lee*, *John Lee*, *William Lee*, *Caleb Lee*, *Jesse Lee*, *William Byrum* and *Clarissa* his wife, *Independence Houck* and *Matilda* his wife, *John Wilson* and *Penelope* his wife, *Jacob Faner* and *Mary* his wife, *Eleanor Lee*, and *Ushley Lee*. The bill states, that on the 19th of June, 1820, *Robert Lee*, being indebted unto *Thomas Worthington* in the sum of £199 2s. 3½d., gave his bill obligatory for the payment thereof in twelve months thereafter with interest; and on the same day, as a further security for the payment of the debt, executed a mortgage in fee simple, of a tract of land in Baltimore county, called Upper Marlborough; that shortly after *Thomas*