

To the payment of a judgment in favor of Herman H. Perry, against the mortgagor, rendered at January term, 1840, of Baltimore County Court. *Thirdly*, To the payment of a similar judgment in favor of the State of Maryland, use of Samuel Wilson, rendered at September term 1845, leaving a residue of \$319 95, which was assigned to the defendant, Belt.

Exceptions were filed to this report, on the 23d of June, 1848, on behalf of G. L. Dulaney and James M. Buchanan, in which among other objections against its ratification, the existence of an intervening mortgage to the trustees of the poor of Baltimore county is urged. This mortgage, the exception states, is elder in date than the judgment in favor of Wilson—is of the property sold under the decree in this cause, and of an amount exceeding the surplus proceeds of sale. The mortgage, however, was not exhibited or filed in the cause, nor was anything stated, or shown, by which the interest of the exceptants was manifested. There was not then, nor is there now, any thing in the cause to show that the parties by whom the exceptions were filed had any interest whatever, in the fund to be distributed.

In this state of the case the cause was laid before the Chancellor during the July term, 1849, and on the 26th of the month, after close of the sittings, an order was passed, ratifying the report of the Auditor, directing the proceeds to be applied accordingly and overruling the exceptions. On the 10th of September following, a petition was filed in the cause, by John King, president of the board of trustees for the poor of Baltimore county, stating the existence of the prior mortgage, to secure the payment of the debt due from the defendant, Belt, to them, and other circumstances which it was supposed gave them a title to have the surplus proceeds of sale appropriated to their payment, and praying that the order of the 26th of July, 1848, ratifying the report of the Auditor, might be rescinded, that the petitioner might be allowed to file his claim under the mortgage, and that the trustees for the sale of the property might, in the meantime, be prohibited from paying over the money to Wilson, &c.

The court on the same day passed an order fixing the 9th of