In reference to the doctrine that the judgment alone vests the title of the property converted, in the defendant, we have seen that it is not sustained by the weight of authorities in this country. It is equally incapable of being maintained on principle.

The property which was mine has been taken from me by fraud or violence. In order to procure redress, I must sue the wrong-doer in a court of law. But instead of getting justice or remedy, I am told that by the very act of obtaining a judgment—a decision that I am entitled to the relief I ask—the property which before was *mine, has become that of the man who did me* the wrong. In other words, the law, without having given me satisfaction for my wrong, takes from me that which was mine, and gives it to the wrong-doer. It is sufficient to state the proposition to show its injustice.

It is said that the judgment represents the price of the property, and as plaintiff has the judgment, the defendant should have the property. But if the judgment does represent the price of the goods, does it follow that the defendant shall have the property before he has paid that price? The payment of the price and the transfer of the property are, in the ordinary contract of sale, concurrent acts. 2 Kent, 388-9.

But in all such cases what has the defendant in such second suit done to discharge himself from the obligation which the law imposes upon him, to make compensation? His liability must remain, in morals and on principle, until he does this. The judgment against his co-trespasser does not affect him so as to release him on any equitable consideration. It may be said that neither does the satisfaction by his co-trespasser or a release to his co-trespasser do this; and that is true. But when the plaintiff has accepted satisfaction in full for the injury done him, from whatever source it may come, he is so far effected in equity and good conscience, that the law will not permit him to recover again for the same damages. But it is not easy to see how he is so affected, until he has received full satisfaction, or that which the law must consider as such.

We are, therefore, of the opinion that nothing short of satisfaction, or its equivalent, can make good a plea of former judgment in trespass, offered as a bar in an action against another joint trespasser, who was not party the to the first judgment. Judgment affirmed.—*Legal Intelligencer.*

SUPREME COURT, PHILADELPHIA.

Boyers Estate. Hughes' Appeal. Buchanan's Appeal.

Between a judgment confessed and an assignment made on the same day, the judgment will have priority.

Chester County.

Opinion by Agnew, J.

The question upon this record is whether a judgment or a deed of assignment for the benefit of creditors, shall take preference in the distribution of a fund arising from real estate. The conceded facts are, that on the same day the judgment was entered the deed was delivered between the hours of ten and one o'clock, but there is no evidence as to the time of the entry of the judgment,—it might have been before or after the *delivery of the deed.*

There is no case to be found in the books precisely like it, yet doubtless there are familiar principles contained in many decisions, which rule this case. Were it a question between lien creditors only it might be readily solved by letting them share in the fund *pro rata*, on the ground that a day has no fractions in legal proceedings. But here the claims of the parties conflict not only in time but nature; and are so irreconcilable, one must give way to the other; and the question is, what principle must govern the precedence. A lien is but an incumbrance on title, but a conveyance passes the title away, if therefore, the judgment be prior, the conveyance is subject to it, if posterior it has no lien because the title is gone.

In principle the case falls clearly within the decision in *Mechanic's Bank* v. *German*, 8 W. & S. 304; Olaasen's Appeal, 10 Harris, 363, and like cases; admitting proof of the hour at which each transaction took place. But no proof was excluded, and the difficulty arises not from a denial of a right to give it, but from the inability to furnish it. We are then driven to the necessity of determining the rights of the parties upon the presumptions which the law must afford us. In point of fact the judgment may have been prior, it would therefore be unjust to postpone it from mere considerations of equality in the distribution. It may have been subsequent, and it would be improper to give it undue precedence It must therefore be determined upon just legal principles, and those reasons which best promote the general interests.

The rule, that, in the entry of judgments and liens of like character, rejects portions of the day is not a legal fiction, but a measure of policy to prevent litigation and serve as a guide to the public It is firmly established and is not to yield unless to the certain demands of justice.

Starting with this principle the lien of the judgment which begins with the day itself, necessarily antedates the conveyance. In this respect there is no distinction between judgments by confession and those actually pronounced by the courts. It is easily to be seen that in the case of adversary judgments, they might be often defeated by the fraud of defendants, who on the same day could place assignments for creditors on record, unless the legal presumption be maintained. Indeed, at common law, the judgment related back to the first day of the term, and it required the passage of the act of 1772, to confine its operations to the day on which it was signed, in favor of *bona fide* purchasers for a valuable consideration.

Besides these motives of public policy, reasons are to be derived from the comparative ability each party has to protect himself. The judgment creditor it is manifest has no power to protect himself against the conveyance, which has thirty days for its transit to the public record.

When he enters his judgment he may inquire for conveyances, but is answered there are none in this office, and yet one may have existed hours