And afterwards, to wit on the 14th day of December 1835 the auditor of the Court of Chancery filed in the said cause his report and accounts accompanied by sundry papers in the words following to wit.

Samuel Maynard, against George Fitzhugh, Mary Fitzhugh, Daniel O. Fitzhugh and the President and Directors of the Bank of Maryland.

In Chancery 14th December 1835

The auditor reports to the Honorable the Chancellor that he did after having given due notice to the parties through their solicitors that he should on Monday the 30th November 1835 attend at his office to take such testimony as they might offer touching the cause and immediately thereafter state such accounts as were required that he did then and there take the testimony on behalf of the defendants herewith submitted. He further reports that he has in accordance with the instructions to him by the solicitor of the defendants stated the claim of the complainants in four different aspects as exhibited in account Nos. 1, 2, 3 and 4, that he has also stated the same claim according to the pretensions of the complainant in account No. 5, and that in obedience to the order of the 12th November 1835 he has also stated an account No. 6 showing the amount now due to the complainant according to the view taken thereof by the auditor all which accounts are herewith filed. In the account No. 6, the auditor has rejected the payments made to Thomas Buchanan as stated in papers marked J.B. No. 1 and J.B. No. 2 filed with the testimony taken before the auditor because the said payments profess to be made on account of a mortgage from George Fitzhugh to Mrs. Dulany and which had been assigned to said Buchanan and not on account of the mortgage in the proceedings mentioned which is from George Fitzhugh and others to Rebecca Dulany and Walter Dulany assigned to Thomas Buchanan, although there is much to lead to the conclusion that these mortgages are one and the same yet when it is considered that this evidence is merely proof of the hand writing and is offered at this late date in order to correct as is alleged an error committed more than twelve years ago in a settlement which has been solemnly sanctioned by two deeds of the parties and by their frequent payments of interest on the balance due by them as ascertained at that settlement it appears insufficient to prove such error. In this account No. 6 the auditor has rejected the Bond and deed of the parties wherein even a larger amount than the aggregate of the principal and interest of the mortgage debt due at the execution of said Bond and deed seem to have been united and the whole attempted to be secured as a principal sum by the original mortgage. This attempt to secure by the original mortgage more than the principal therein mentioned with legal interest thereon the auditor submits is contrary to the terms of the said mortgage and illegal and the complainant is entitled to claim as a lien on this estate only the principal mentioned in the mortgage with interest thereon. The right of the complainant under the bond it is also submitted are not impaired by this opinion. All which is respectfully submitted.

A. Randall, Aud.

Account No. 1.

Dr. George Fitzhugh, Mary Fitzhugh and Daniel O. Fitzhugh defendants, To Samuel Maynard administrator D.B.N. of Lewis Neth deceased.

1791						
Oct.	10	To amount of debt by deed of Trust from George Fitzhugh to Walter Dulany marked complainants Exhibit A and also by mortgage from Mary Fitzhugh and others to Rebecca Dulany and others assigned to complainants intestate and marked E.G. No. 1, filed with the Commission 31st April 1834	£230	cy	613	33
1793 Nov.	4	To amt. of debt secured by mortgage above stated assigned to complainants intestate	£400	cy	1066	67
		Int on £613.33 from 10th Oct 1791 to 24 Sept. 1807 15 yr 11 mo 14 ds			587	16
		Int on £1066.67 from 4 Nov. 1793 to ditto 13 yr 10 mo 20 ds			888	89
				£	3156	05
		By cash then paid Thomas Buchanan in part of Int as pr. paper proved before the auditor marked J.B. No. 1 £80.17s. 2d cy			215	62
					2940	43
		Int on £1680.00 part thereof from 24th Sept. 1807 to 23d April 1808 = 6 mo 29 ds			58	52
					2998	95
		By cash then paid Thomas Buchanan on acct. of Int as pr. paper proved before the auditor marked J.B. No. 2			107	79
					2891	16
		Int on £1680.00 from 23d April 1808 to 22 April 1823 = 14 yr 11 mo 29 ds			1511	72
					4402	88
		By cash then paid as per complainants Exhibit E			354	90
					4047	98
		Int on £1680.00 from 22 April 1823 to 15th April 1824 = 11 mo 23 ds			98	84
					4146	82
		By cash then paid as pr. Complainants Exhibit E			354	90
					3791	92
		Int on £1680 from 15th April 1824 to 5 Dec. 1825 1 y 7 mo 20 ds			165	20
					3957	12
		By cash then paid as per Complainants Exhibit E			532	42
					3424	70
		Int on £1680 from 5th Dec. 1825 to 2d Feby 1827 1 y 1 mo 27 ds			116	76
					3541	46
		By cash then paid as per Complainants Exhibit E			354	95
					3186	51
		Int on £1680 from 2d Feby 1827 to 18th Feby 1829 2 y 0 mo 16 ds			206	08
					3392	59