McPherson, adm. D. B. N. of Neth. vs. Fitzhugh. } In Chancery. The respondents Mary Fitzhugh, Henry M. Fitzhugh, Elizabeth A. Fitzhugh, Mary A. Fitzhugh, Margaret M. M. Fitzhugh except to the sufficiency of the averments of the several bills heretofore filed in this cause, for as much as said bills do not nor does either of them contain any sufficient allegation of any compounding of interest or of any agreement to compound interest prior to the 22d day of April 1822, nor is there any sufficient averment of any accounting or of any account stated at the times of the two several assignments to Buchanan and Neth or of any consideration paid by said Buchanan, or said Neth on either of said assignments or of any concurrence of respondents or any of the defendants in said assignments or in any such accountings or compoundings. The said respondents likewise except to the sufficiency & competency of any evidence in the cause to prove any compoundings, or agreements therefor as above or to prove any consideration paid by said Buchanan or said Neth on said assignments or any accountings of such assignments, or any privity of any of said defendants thereunto or any concurrence of any of them therein.

Grafton L. Dulany.
S. Teakle Wallis, Solr. for Resp.ts

And afterwards to wit on the 8th day of March 1843 the Chancellor passed his Decree in the said cause which was duly enrolled in the words following to wit.

William S. McPherson adm. De bonis non of Lewis Neth, deceased. vs. George Fitzhugh, Junior and others. } In Chancery, December Term 1842, This cause standing ready for hearing and being submitted the Bill answers and other the proceedings were read and considered. It is thereupon this eighth day of March in the year of our Lord one thousand eight hundred and forty three by Theodorick Bland Chancellor and by the authority of this Court adjudged ordered and decreed that the statement of the auditor marked No. 5 be and the same is hereby ratified and confirmed all other parts of the auditors reports being hereby rejected, and it is further adjudged ordered and decreed that the defendants on or before the eighth day of April next pay or bring into Court to be paid to the said plaintiff the sum of eight thousand one hundred and sixty two dollars and twenty two cents with interest on five thousand nine hundred and fifteen dollars part thereof from the sixteenth day of December in the year eighteen hundred and thirty five until paid, or brought in together with the costs of this suit or that the property in the proceedings mentioned be sold that Thomas S. Alexander of Annapolis be and he is hereby appointed Trustee to make such sale, and that the time and manner of his proceedings shall be as follows, He shall first file in the Chancery Office a bond to the State of Maryland executed by himself with a surety or sureties to be approved by the Chancellor in the penalty of twenty thousand dollars conditioned for the faithful performance of the trust reposed in him by this decree or which may be reposed in him by any future order or decree in the premises. He shall

then proceed to make sale of the said property having first given at least three weeks previous notice inserted in some newspaper printed in Baltimore and such other notice as he may think proper of the time place manner and terms of sale which terms shall be as follows one third of the purchase money to be paid on the day of sale and the residue in one year from the day of sale the whole to bear interest from the day of sale and to be secured by bond with surety to be approved by the Trustee, And as soon as may be convenient after any such sale or sales the said Trustee shall return to this Court a full and particular account of the same with an affidavit of the truth thereof and of the fairness of such sale or sales annexed. And on the ratification of such sale or sales by the Chancellor and on the payment of the whole purchase money (and not before) the said Trustee by a good and sufficient deed to be executed and acknowledged agreeably to law shall convey to the purchaser or purchasers of said property and to his her or their heirs the property to him, her or them sold fee clear and discharged of all claim of the parties to this cause and of any person or persons claiming by from or under them or any of them. And the said Trustee shall bring into this Court the money arising on such sale or sales and the bonds or notes which may be taken for the same to be disposed of under the direction of this Court after deducting therefrom the costs of this suit and such Commission to the said Trustee as the Chancellor shall think proper to allow on consideration of the skill attention and fidelity wherewith he shall appear to have discharged this trust.

Theodorick Bland, Clk.

William S. McPherson vs. George Fitzhugh & others. } In Chancery 8 March 1843. The said decree of this day in this case having been passed upon oral argument by the solicitors of the parties this Court doth therefore according to the act of assembly in such case made and provided set down and file the following opinion for or in respect of the said decree. It is the opinion of this Court that the case now accords in all respects with the opinion of the Court of Appeals and that there is no evidence of any usury having been exacted or taken.

Theodorick Bland Clk.

From which said decree the Defendants (the Fitzhughs) by their counsel aforesaid on the 13th day of March 1843 prayed an appeal to the next Court of Appeals to be holden for the Western Shore of Maryland and afterwards to wit on the 5th day of June 1843 filed in the said cause an appeal Bond duly approved by the Chancellor in the words following to wit, Know all men by these presents that we Henry M. Fitzhugh, Grafton L. Dulany and George Gordon Belt of Baltimore City and County in the State of Maryland are held and firmly bound unto William S. McPherson administrator de bonis non of Lewis Neth deceased or to his certain attorney executors administrators or assigns in the sum of two thousand two hundred dollars current money to which payment well and truly to be made, we bind ourselves and every of us our and every of our heirs executors and administrators jointly and severally firmly by these presents, sealed with our seals and dated this second day of June in the year of our Lord one thousand eight hundred and forty three.