said cause his petition in the words following to wit.

To the Honorable Theodorick Bland, Chancellor of Maryland.

The petition of Edmond Byrne respectfully represents, that in the case of Mashes Williams ad. Byrne ag. Smith &c the trustees therein appointed sold the premises in said case described to this petitioner being a resale in consequence of a defaulter in the first purchaser, that such sale to this petitioner has been to wit, on the 19th of June inst. finally ratified by your Honor. His petitioner further states that Edward I Smith one of the defendants is in actual possession of the said premises and declines and refuses to deliver up to your petitioner possession thereof notwithstanding the aforesaid purchase by him. Wherefore this petitioner prays your Honor to pass an order requiring the said Smith to deliver up to the petitioner the possession of the premises &c in the manner usual and conformable with the practice of your Honorable Court, and that your Honor would grant such further relief in the premises as the nature of the petitioners case requires and as in duty &c.

Edmond Byrne.

Nath. Williams, Sol. for Pet.

On which petition the Chancellor passed the following order.

In Chancery 25 June 1845.

Ordered that the matter of the aforegoing petition stand for hearing on Tuesday the fifteenth of July next, provided a copy of this order and of said petition be served on the said Edward I Smith on or before the first day of July next. Theodorick Bland Clk.

And afterwards to wit on the 3d day of July 1845 came the defendant Edward I Smith by his counsel aforesaid and prayed an appeal from the order of the Chancellor of the 19th of June 1845 to the next Court of Appeals to be holden for the Western Shore of Maryland in the words following to wit.

Baltimore July 2d /45.

Louis Gassaway Esq. Dear Sir, Please enter an appeal on the part of Edward I Smith from the order of the Chancellor ratifying finally the sale reported by Williams and Baker Trustees and send me an appeal bond. Please hand the memorandum below to Mr Randall and oblige yr. sincere Friend. David Stewart.

No. 20 St. Paul Street.

And afterwards to wit, on the 4 day of July 1845 there was filed in the said cause service of a copy of the petition of Edmond Byrne and the order thereon in the words following to wit. (Copy)

To the Honorable Theodorick Bland Chancellor of Maryland.

The Petition of Edmond Byrne respectfully represents that in the cause of Mashes Williams ad. Byrne against Smith &c the Trustees therein appointed, sold the premises in said case described to the petitioner being a resale in consequence of a defaulter in the first purchaser that such sale to this petitioner has been to wit on the 19th of June inst. finally ratified by your Honor. His petitioner further states that Edward I Smith one of the defendants is in actual possession of the said premises and declines and refuses to deliver up to your petitioner possession thereof notwithstanding the aforesaid purchase by him. Therefore this petitioner prays your Honor to pass an order requiring the said Smith to deliver up to the petitioner the possession

of the premises &c in the manner usual and conformable with the practice of your Honorable Court and that your Honor would grant such further relief in the premises as the nature of the petitioners case requires and as in duty &c.

Edmond Byrne.

N. Williams, Sol. for petitioner.

In Chancery 25th June 1845.

Ordered that the matter of the aforegoing petition stand for hearing on Tuesday the fifteenth of July next. Provided a copy of this order and of said petition be served on the said Edward I Smith on or before the first day of July next.

Theodorick Bland, Clk.

True Copy. Test. Louis Gassaway, Reg. Cur. Can.

Made known, copy left, June 30th 1845. N. Tracey, Shff.

And afterwards to wit, on the 12th day of July 1845 the auditor of the Court of Chancery filed in the said cause his report in the words following, to wit,

James Mashes and Nathaniel Williams adm. and others vs. Edward I. Smith & wife, and others.

In Chancery 12th July 1845.

The auditor reports to the Honorable the Chancellor that he has again examined the proceedings in this cause, and therefrom stated an account, between the Real estate of Edward I Smith and the Trustees for the sale thereof wherein he has applied the proceeds of sale to the payment of the Trustees allowance for commissions the tax of ten per cent being deducted therefrom and assigned to the State of Maryland of their expenses and of the Trustees costs on the petition filed by them for the resale and the net proceeds to the part payment of the balance of the purchase money due to the said Trustees, as Trustees for the sale of the mortgaged real estate of Edward I Smith and wife with interest leaving a balance still due thereon. He further reports that as it does not appear that the purchaser has ever complied with the terms of sale by giving his bonds the several payments made by him have been credited on the whole purchase money and not upon any instalment.

All which is respectfully submitted.

Cornelius McLean Aud.