trustee to set aside this deed as fraudulent and void. If the verdict on the allegations vacate this deed and restore the property in the trustee why the necessity of these proceedings a permanent trustee might have been appointed years since on the petition of any of the creditors who could have sued this property from the debts of any and closed the trust. In the case of Kennedy vs Boggs 3rd H & J which arose under the act of 1816 ch 221 appointing permanent trustee of insolvent debtors in the City of Baltimore the proceeding trustee was necessary for the recovery of property conveyed in fraud of creditors and the Court say that when assignments of this description are considered null and void they are to be vacated only for the purpose of vesting the property in the permanent trustee. John Cushna the grantee of this deed of Nov 14th 1826 and the defendants who claim under him have been in possession of the property conveyed by this deed duly acknowledged and recorded which exists to all the world for the last forty years claiming the same under said title. If Benjamin Cushna in the execution of it perpetrated a fraud upon the insolvent law this fraud was discovered in March 1827 when the allegations against him were tried and as soon as discovered the creditors of Benjamin for whose benefit this suit is prosecuted had their remedy in a Court of law where they could have appeared at any time and petitioned for the appointment of a permanent trustee to take possession of the property or institute a suit in the proper Court to test the validity of the deed. But instead of exercising reasonable diligence in the prosecution of their rights have slept on the same for nearly twenty four years before the first step was taken to secure them and now after forty years of neglect and delay this Court is invoked to vacate this deed and dispossess these defendants. If staleness of claim and gross laches is a defence to be regarded in a Court of Equity this case is certainly one that demands its application and is entitled under that head. Judge Story in 2d Story Equity Sec 1524 remarks laps of time is a defence peculiar to Courts of Equity founded on the staleness of claims gross laches in prosecuting rights and long acquiescence with the assertion of other rights in all such cases Courts of Equity refuse to interfere for the sake of promoting the peace of society and to discourage demands 5th G & J 132 Judge Archer remarks in equity laches and neglect and discountenanced stale demands without any effort to enforce them cannot merit the aid of a tribunal which only lends its powers to reasonable diligence. I beg pacify ourselves in my own mind that the equities of this case are entirely with the defendants I will sign and order dismissing the Bill

George French

Ordered adjudged and decreed by the Circuit Court for Washington County as a Court of Equity this 16 day of August 1865 that the bill filed in this cause be and the same is hereby dismissed with costs to be paid by Complainant

Aug 16th 1865 George French

And thereupon the said Complainant by his Solicitor aforesaid on the 31 day of August A.D. 1865 prays an appeal from the order dismissing said bill to the Court of appeals of Maryland.

It is therefore Ordered by the Court here that the Record and proceedings aforesaid with all things thereunto relating be transmitted to the said Court of appeals of the said State and same are transmitted accordingly.

Test Lewis R Nyman Clk

State of Maryland Washington County Sct.

I hereby certify that the foregoing is a true copy taken from the Record of proceedings of the Circuit Court for Washington

County Maryland In testimony whereof I have hereunto subscribed my name and affix the seal of the Circuit Court for Washington County at Hagerstown this 16th day of September A.D. 1866.

(Seal)

Lewis R Nyman Clk

And now come into the Court of appeals here as were the said A.K. Syester trustee of David Brewer and others by A.K. Syester R.H. Alvey and Oliver Miller Esquires his attorneys as the said David Brewer et al by William T. Hamilton and J.S. Hagell Esq their attorneys and thereupon on motion of the said David Brewer et al by their attorneys aforesaid it is ordered by the Court here that the said A.K. Syester trustee of Benjamin Cushna assign the errors in the Record of proceedings aforesaid or in the giving the decree aforesaid so as aforesaid brought before the Court of appeals here for correction of the errors supposed to be therein or therein by the Court of appeals here will be entered against him in default thereof and the said A.K. Syester trustee of Ben Cushna by his attorneys aforesaid says that in the Record of proceedings aforesaid and also in the giving of decree aforesaid there is manifest error in this to wit that by the Record aforesaid it appears that the Decree aforesaid in the first aforesaid given was given for the said David Brewer et al against the said A.K. Syester trustee of Benjamin Cushna when by the law of the land that decree ought to have been given for the said A.K. Syester trustee of Benjamin Cushna against the said David Brewer et al therefore in that there is manifest error and he prays that the decree aforesaid for that error and others being in the Record of proceedings aforesaid may be reversed annulled and held entirely as void and that he the said A.K. Syester trustee of Benjamin Cushna may be restored to all things which he hath lost by occasion of the said decree and that the said David Brewer may respond to the errors aforesaid and so forth. And thereupon it is ordered by the Court of appeals here that the said David Brewer et al for in the errors by the said A.K. Syester trustee of Ben Cushna above assigned in the Record of proceedings aforesaid or decree by the Court of appeals here will be rendered against them in default thereof and the said David Brewer et al by their attorneys aforesaid say there is no error in the Record of proceedings aforesaid nor in the giving of the decree aforesaid and they pray that the Court of appeals here will proceed to the examination as well of the Record of proceedings aforesaid as of the matters aforesaid by the said A.K. Syester trustee of Ben Cushna above for error assigned and that the said decree may be in all things affirmed and so forth. Thereupon further process of and upon the premises between the parties aforesaid is by virtue of an act of Assembly in such cases made and provided continued before the Court of appeals here until the first Monday in April next the same days given to the said parties then to hear the decree of the Court of appeals hereof and upon the said premises and so forth.

And now at this day to wit the said first Monday in April being the first day of the said Month in the year of our Lord 1867 come again into the Court of appeals here the parties aforesaid by their attorneys aforesaid. Whereupon as well the Record and proceedings aforesaid and the decree given in form aforesaid as the matters aforesaid by the said A.K. Syester trustee of Ben Cushna above for error assigned being seen and by the Court of appeals here fully understood, and mature deliberation thereupon had for that it appears to the Court of appeals here that there is no error in the Record of proceedings aforesaid nor in the giving of the decree aforesaid. Therefore it is considered by the Court of appeals here that the decree aforesaid given in form aforesaid be in all things affirmed and stand in full force and effect the said causes for error above assigned and alleged in any wise notwithstanding.

Thereupon the Court of appeals here pass their decree in the said cause in the words