trustees thereunder unless they had first given bond to the State in such penalty and with such security as the Court might determine; and your petitioner humbly suggests, that the trustees named in the order of Court of the 27th day of September, 1881. (a copy whereof was filed on the 9th day of March as an exhibit with your petitioners' original exception to said sale, except the signature of the Judge passing the order, which signature was unintentionally omitted,) were thereby made Receivers of the rents of the real property only, and custodians of the same; and as such gave a bond of ten thousand dollars merely, and were not thereby made successors to the trustees named in the will, to hold the rest and residue of the whole estate of the deceased, which was and is worth several hundred thousand dollars; and he states that the decree of this Court, passed in this cause on the 26th day of June, 1882, did not require the trustees to give bond, and that they, as such trustees, have never given the bond required by the will.

Second. That the order of September 27th 1881, appointing the said Elizabeth H. Collins and Richard Bernard, was passed on the application of a part only of the cestuis que trust, or persons interested in the trust estate, and not on the application or hearing of all of the persons interested therein, nor were all of said persons parties to the proceedings for the appointment of new trustees, nor were they parties to the order itself, and he refers to the said copy of the order and to a copy of the petition whereon the order was passed, (filed herewith, marked Exhibit "J." as part hereof,) as showing the portion of the persons who made the application, and to the proceedings in this case (the original bill) as showing all the persons interested in

the estate; and your petitioner is advised, that so many of the persons interested in the trust estate as were not parties to the order of September 27th, 1881, appointing the said Elizabeth H. Collins and Richard Bernard trustees, were not bound by the order, and are not now bound by any sale they may as such trustees make of any part of the trust estate.

To the end, therefore, that the order of March 23d. 1885, may be reconsidered and cancelled, and inasmuch as your petitioner has in good faith contracted for the purchase of the said property, and is entitled to a good and merchantable title to the same under such proceedings herein hereafter to be had, as may be necessary in law to accomplish that end.

May it please your Honor to set down for hearing at some early day the matter of this petition.

And as in duty, &c.

L. W. Reynolds,
Sol. for Reman.

On this, the 13th day of April, 1885, personally appeared in open Court Luther W. Reynolds, solicitor for the petitioner in the aforegoing petition named, and made oath in due form of law that the matters and facts in said petition contained, are true to the best of his knowledge and belief.

James R. Brewer,
Clerk.

This petition for a rehearing overruled this 17th day of April, 1885.

Geo. Wm. Brown.

Petitioner's Exhibit J.

(Filed 15th April, 1885, with above Petition for Rehearing.)