

thereon, remains unpaid, and prays for a sale of the mortgaged premises to satisfy the same. The defendants to this bill, one Charles Tiernan, William H. Tiernan, Guy P. Tiernan, Alexander Neill and W. Tiernan Somerville.

The defences taken in the answer, are, that the executors of Luke Tiernan, paid Scott, on the 11th of February, 1841, \$1,000, and on the 29th of May, \$4080, which last was in full of the mortgage debt, and that the mortgage was released by Scott; that the complainants by their laches and lapse of time, have forfeited their title to relief, and that the claim is barred by limitation.

The case was removed to this court, and argued on notes by the solicitors of the respective parties.]

THE CHANCELLOR:

The proceedings in this case, show, that on the 4th of May, 1835, a decree passed in this court, for the sale of the real estate of Samuel McKim, deceased, upon a bill filed by Joseph McKim, and, that the trustees thereby appointed, did make sale of the property, and brought the proceeds into court. That difficulties being interposed to the distribution of a portion of the money, by reason of an appeal taken from the order of the Chancellor, an agreement was entered into by the parties interested, on the 22d of July, 1836, by which it was stipulated, by and with the consent of the Chancellor, that John Glenn and John Scott, of the city of Baltimore, be constituted trustees, to receive and invest the portion of the proceeds in relation to which the controversy existed, amounting to \$10,695 48, and that upon the final hearing of said appeal, the said Glenn and Scott, should pay into the Court of Chancery, the said sum of money, and all interest and profit which should accrue thereon, subject to the order and decree which might be passed on the appeal.

Upon this agreement, the Chancellor, on the 23d of July, 1836, passed an order, directing the register to draw a check on the Farmers' Bank of Maryland, in favor of said Scott and Glenn, for said sum of money to be invested during the pen-