

tion of the court as an infant, when the decree was passed against him. He was not in a situation to appeal from it, and the present defendants will have it in their power to have the whole proceedings revised by the appellate court. *Decreed*, that *Henry Prutzman*, by a good deed, to be acknowledged and recorded agreeably to law, shall give, &c. unto the petitioner, *Henry Pitesell*, and his heirs, all that parcel of land in *Frederick county*, part of *Paraphrase and The Resurvey on John's Delight*, containing 166 acres, together with, &c. which was on the 29th day of March 1797, conveyed by *Henry Kuhn*, as guardian and in behalf of *Henry Pitesell*, to the said *Henry Prutzman*, in trust, as by reference to the same will appear, &c. *Decreed* also, that *John Prutzman*, and *Elizabeth* his wife, shall by a good deed, &c. give, &c. unto the petitioner, *Henry Pitesell*, and his heirs, all their interest and right in the said land. *Decreed* also, that the defendants account with the petitioner for the rents and profits of the land, &c.

From this decree the defendants appealed to this court.

Shaaff, for the Appellants, contended, 1. That the decree referred to cannot be set aside by a bill, unless that bill suggests fraud, and that fraud be proved; and 2. That in this case there was no fraud. On the *first point*, he cited the acts of *Nov. 1773, ch. 7, & 1795, ch. 88. Mosely, 306. 1 Harr. Ch. Pr. 251. Fountain vs. Caine & Jeffs, 1 P. Wms. 504; and Napier vs. Effingham, 2 P. Wms. 401.*

Ridgely, for the Appellee.

DECREE AFFIRMED.

ORME VS. LODGE.

JUNE.

ERROR to Montgomery County Court. An action of slander was brought by the plaintiff in error, to which the defendant in error put in the plea of justification short, under an agreement that it should be considered as if a good and valid plea of justification had been put in at length in a formal and legal manner, and so plead as the law required a legal justification in such a case to be pleaded, and the issue regularly joined thereon. At the trial, the court having refused to direct the jury on the plaintiff's

Held, that the plea was not sufficiently pleaded, and upon that ground, reversed

In an action of slander for words spoken, the plea of justification was put in short, with an agreement of the counsel that it should be considered as if a good and valid plea of justification had been put in at length in a formal and legal manner. The court of appeals, on the record coming before them by a writ of error sued out by the plaintiff the judgment

1810.

Orme
vs
Lodge