

to the contrary thereof having been shown although due notice has been given as required by the preceding Order. The Auditor is hereby authorized to appropriate and pay out the funds accordingly.

Final Ratification of Auditor's Report Filed Oct. 17, 1879.

John Lynch,
William V. Lewis,
Judges of the Cir. Court.

No. 4434 Equity

Bill

Jacobiah J. Gittinger Exr. of
Simon C. Simmons Dec'd

Edmond Pembell

To the Honorable the Judges of the Circuit Court for Frederick County, sitting as a Court of Equity.

The Bill of Complaint of Jacobiah James Gittinger, acting Executor of Simon C. Simmons late of Frederick County, doctored respectfully shews unto your Honors that hadofore to wit on the Thirtieth day of May in the year Eighteen Hundred and Sixty Eight a certain Edward Pembell of Frederick County in the State of Maryland being indebted unto the said Simon C. Simmons in the sum of One Hundred Dollars on a certain promissory note for that amount bearing date the day and year aforesaid and payable four months after the date thereof, which said note is herewith filed as a part of this Bill marked Exhibit "A" and intending to secure the payment thereof unto the said Simon C. Simmons his Executors, administrators and assigns, with interest from the date of said note, did by his Deed of that date convey unto the said Simon C. Simmons his heirs and assigns certain Real Estate lying in said County particularly described in said Deed, to which said Deed there is a Condition annexed, that it be void on payment by the said Edward Pembell his heirs, Executors or Administrators, to the said Simon C. Simmons his Executors Administrators or assigns of the aforesaid sum of money with legal interest thereon, on or before the Thirtieth day of September, in the year Eighteen Hundred and Sixty Eight, as by a certified Copy of said Deed marked Exhibit "B" and filed herewith as a part of this Bill, will more fully appear.

And your Orator further Charges, that afterwards the said Simon C. Simmons departed this life leaving a last will and Testament in writing, whereof he appointed your Orator and Cyrus Simmons the Executors, and that your Orator has since duly proved the said Will, and that the said Cyrus Simmons having renounced his rights as Executor appointed by said will, your Orator has obtained Letters Testamentary thereon from the Orphans Court of Frederick County, as by a certificate thereof given by the Register of Wills of said County marked Exhibit "C" and filed herewith as a part of this Bill will more fully appear.

And your Orator further Charges that the said Real Estate remains charged with the Payment of the aforesaid Debt and interest and he is advised that by the death of said Simmons and the granting of the Letters Testamentary aforesaid and as the time limited by the said Deed of Mortgage for the payment of the said Debt and interest, has elapsed, and no part thereof has been paid, except the interest which accrued from the date of said Deed of Mortgage to the first day