

pointed trustee to receive and invest certain sums of money, then under the control of the court, belonging to Ann McKim Handy and Eliza McKim Duncan; and that having qualified by giving the bond required by the Chancellor's order, he did receive, at various periods, commencing on the 3d of January, 1845, and terminating on the 25th of November of the same year, the sum of thirty thousand eight hundred and thirty-two dollars; of this amount upwards of twelve thousand dollars were received in the months of October and November, 1845. The money not having been invested, and the said Schley having failed to bring the same into court, in compliance with an order to that effect, passed on the 29th of June, 1846, the complainant Gill, was, on the 6th of July, 1846, appointed trustee in his place, and duly qualified by giving bond as such, and, thereupon, he caused writs of *feri facias* to be issued upon the order against Schley, on the 24th of July, 1846, directed to the sheriffs of Baltimore, Alleghany, Washington and Frederick counties; which writs were received by the sheriffs, but were ineffectual, for the reasons stated in the bill.

It further appears, that on the 22d of March, 1845, the defendant, Schley, for the purpose of securing the defendant, Griffith, against a liability incurred by the latter, on account of the former, to the amount of six thousand dollars, conveyed to him, by way of mortgage, the personal property of the grantor, of every description in the city of Baltimore, and a tract of land in Alleghany county, with conditions that the conveyances should be void, in case Schley should pay at maturity the notes which Griffith had indorsed for him. Afterwards, on the 21st of April in the same year, a new mortgage of the land in Alleghany county was given, in which it was recited, that in addition to the three notes for \$2000 each, mentioned in the original mortgage, Griffith, the mortgagee, had, on the day of the execution of the last mortgage, indorsed two other notes for \$2000 each, for the accommodation of Schley, and that this last mortgage was given to secure the payment of all the notes.

The two first mortgages though duly executed and acknowledged, were not recorded; but the last mortgage of land in