

The first opinion upon the application of the Union Bank to be made-plaintiffs instead of defendants to the bill, was delivered on the 3d of October, 1848, during the September term of the Court.]

THE CHANCELLOR :

In September, 1843, the complainants, Samuel Ellicott and others, filed their bill in this court, making a number of persons, and the president and directors of the Union Bank of Maryland, parties defendants.

The complainants charged, that a paper purporting to be the last will of Charles T. Ellicott, executed in July, 1831, and another paper purporting to be a deed executed by him in February, 1832, were fraudulent and void, for the reasons stated, and the bill prayed that these papers might be declared to be void, and that a certain other paper executed by the same party in December, 1834, and also purporting to be his last will, and under which the complainants were entitled to parcels of his estate, might be established as such, their rights ascertained and determined thereunder, or that the court might decide upon the rights of the complainants, and the other parties in interest, as the same might be affected by the law of descents.

The bill also alleged that the title of the defendant, Thomas Ellicott, whatever it might be to the real property in question, had been sold and conveyed by the sheriff to the Union Bank of Maryland, under executions from Baltimore County Court, against the said Thomas Ellicott.

The plaintiffs, then, attacking the first will and deed of Charles T. Ellicott, upon the grounds stated in the bill, and relying upon the second will, or upon the law of descents, if both wills should be adjudged to be void, ask for relief accordingly.

Answers have been filed to this bill, by the defendants, in which the validity of the impeached instruments is maintained, and proofs are now in process of being collected upon the one side and the other.

At this stage of the cause, the Union Bank of Maryland filed their petition on the 24th of May last, in which they state,