

1846. the aforesaid purchase moneys as he has received, with interest thereon; and in taking the accounts hereby referred to the master, he is to make to the parties all just allowances; and for the better taking of the same, the parties are to produce before, and leave with the master upon oath all deeds, books, papers and writings in their custody or power relating thereto, and may be examined upon interrogatories as the master shall direct; for which purpose, and for the examination of witnesses in the taking of the said accounts, if necessary, a commission or commissions may issue into the country, directed to proper commissioners; or such examination may be had before an examiner or examiners of this court in the country, as the master shall direct; and his honour doth reserve the consideration of costs, and of further directions, until after the master shall have made his report."

Simpson  
v.  
Smyth.

From this decree, and the several orders overruling the plea and demurrer of *William Simpson*, the defendants (in the court below) now appealed; and on the appeal coming on for argument,

Statement.

Mr. *Sherwood*, Q. C., Mr. *Sullivan* and Mr. *Blake*, appeared as counsel for the appellants *Simpson* and *Ward*; and with reference to the order overruling the plea, stated briefly the possession of *Thomas Smyth*, the father of the respondents, the mortgage and bond to Mr. *Sewall*, and subsequent judgment and execution against lands, under which the sheriff had seized the lands now sought to be redeemed, and sale to *Jones*. *Jones* claiming the fee, sells, and after various mesne assignments the estate vests in the appellants. The *Smyths* having filed their bill to redeem, *Simpson* pleaded these matters in bar; and the question that arises is, could the sheriff sell *Smyth's* equity of redemption under a writ of *fiery facias* issued against lands? and secondly, if the equity of redemption were saleable under that writ, has the sale of the land conveyed it?

First, is the equity of redemption saleable under this