

vided among them according to their several and respective proportions and invested for their use and benefit. The object of the bill, and the decree which authorized a sale, was to promote the interests of the parties, by rendering the property in some new shape more productive, and not to enlarge the power of the *cestui que trusts* over it. The money or bonds derived from the sale were to be brought into court, to be disposed of under its direction, and should be invested, subject, in all respects, to the trusts of the will.

The petitioner, Farquharson, the substituted trustee, was a party to the bill, and I do not think his trust ceased with the sale of the property under the decree. On the contrary, unless some sufficient reason can be shown, he is the person who should make the investment, and hold the fund in trust for all the parties interested. So far, therefore, from being an intermeddler in the cause, he was, in my opinion, perfectly justifiable in interposing and raising the question of the validity of the sale by the *cestui qui trust* to Mr. Wilson.

But apart from the want of power on the part of the vendor to make the sale to Mr. Wilson, there are other circumstances which cannot be overlooked in deciding upon its validity. The vendor can neither read nor write. His mark is affixed to all the papers executed by him, including his answer to the petition of Mr. Wilson, and there is no very satisfactory evidence that they were read or fully explained to, and understood by him. The proof upon this point is, to say the least, doubtful, and when the vast disproportion between the value of the property sold, and the price stipulated to be paid for it is considered, it would seem eminently proper that the transaction should be free from all suspicion, that the party most liable to be imposed upon, was not fully aware of what he was doing. When it is apparent, upon the face of the transaction, that property had been sold at an enormous sacrifice, and it is shown that the party making the sacrifice is totally uneducated and incapable of reading or writing, a reasonable ground for supposing that he may not have understood what he was doing, cannot be without its influence in deciding upon the validity of