

and that he being the last purchaser, the deficiency all fell on him, as he was to take the residue. On which petition the trustee *Wallace* certified as follows, that on the day of sale he made it known, 'that, if upon an accurate survey it should be found, that the tract called *Convenience* did not contain fifty-six acres, that the deficiency should be deducted from the last lot of said tract sold, containing six acres, and the purchaser credited with the price. *Mr. William Cole* was the purchaser, and the price per acre will appear by reference had to my report. The said tract has been since surveyed by *Mr. Osborn*, who certifies, that it contains only fifty-four acres, which I believe to be correct.'

22d February, 1814.—KILTY, Chancellor.—Ordered, that the trustee credit the principal of the petitioner's bond with the price of two acres of lot No. 6, viz. \$40.

The auditor in a report bearing date on the 17th of June, 1814, said, that he had, at the request of the said *Abraham Jarrett*, stated an account between the estate of the said *William Mitchell*, deceased, and the heirs at law of *James Mitchell*, deceased, in which the intestate *William's* estate was charged with the valuation of the intestate *James's* estate. *William's* estate was then credited by one-sixth of that sum as the portion of *Martin*, the eldest heir of the intestate *James*, and also by one-twelfth of that sum, being the one-half of the portion of *Bennet*, another heir of the intestate *James*, which it was stated, in the defendant *Parker Mitchell's* answer, were purchased by the intestate *William* in his life-time; but whether those portions had been paid for, did not appear; there being no evidence upon the subject. The auditor further said, that he had then apportioned the balance, \$7,372 50, due from the estate of the intestate *William*, to *Harriet Mitchell*, one-sixth; to *James* and *Aquila Mitchell*, the complainants, one-sixth each; and to *Parker Mitchell*, who alleged in his answer, that he was the purchaser of *Kent Mitchell's* portion, and the remaining half of *Bennet Mitchell's* portion, their shares accordingly; but that there was no proof of the purchase or payment for those portions. That all these claims so ascertained against the estate of the intestate *William*, including interest to the day of the trustee's sale, amounted to \$8,321 13. The auditor further reported, that *Martin Mitchell*, *Bennet Mitchell*, and *Kent Mitchell*, whose interests seemed to be materially affected by these proceedings, were not parties; and, therefore, respectfully submitted, whether they ought