for that he never agreed to give her said Single Bill as for the purchase money of any real estate. And the said Jacob M. Kunkel states and charges that there is nothing due on said Single Bill to the petitioner but that the same has bonafully paid and satisfied to the said Sophia Fitzhugh before the pretended assignment to the said Horatio McPherson. The said Jacob M. Kunkel denies the bona fide of the said pretended assignment of said Single Bill to the said Horatio McPherson and that he has any claim or pretended claim of lien by virtue of said pretended assignment on the real estate aforesaid or upon any part of the purchase money the proceeds of the sale in the hands of said Trustees as claimed in said petition. This respondent states further for answer that the said Horatio McPherson the pretended assignee of said Single Bill has instituted an action on said Single Bill in the Circuit Court for Frederick County as a Court of law for the recovery of the money if any money shall be found due and that the said action is now pending in the said Circuit Court as a Court of Common Law for trial and that the said Horatio McPherson has a full and complete remedy in a Court of Common Law if he have any remedy at all and that this Court as a Court of Equity from the facts set forth in said petition has no Jurisdiction in the case. This respondent states further for answer that even if the money claimed on said single bill was due to said assignee it is not a lien on the real estate in question or the purchase money the proceeds of sale in the hands of the trustees or any one else. That the charges and allegations in the said petition are not sufficient to give this Court as a Court of Equity Jurisdiction over the subject matter as this Court as a Court of Equity cannot assume Jurisdiction to enforce the lien for purchase money unless the vendor has exhausted his remedy at law to recover the amount of purchase money due and is unable to recover the money without the aid of a Court of Equity and that he has exhausted his remedy at law and is unable to recover without the aid of a Court of Equity must be stated and set forth in the Bill or petition praying the interposition of a Court of Equity to enforce the lien for purchase money. In this case the said Horatio McPherson has selected his Forum to recover his pretended claim by instituting a suit in the said Circuit Court as a Court of law where it is now pending for trial and as he must exhaust his remedy therefore he can resort to this Court as a Court of Equity for relief. The said Jacob M. Kunkel therefore prays that the said amount or item in the report of the auditor filed in this case for the sum of $13386.25 - Thirteen thousand three hundred and eighty six dollars and twenty five cents allowed to this respondent may be ratified and confirmed and the petition of the said