

caused by them or ratified by them is a fraud and voids the sale. The sale thus made was adopted by the trustees approved of and reported by them to the Court for ratification.

On this case the trustees, if the sale should be ratified, would be profiting by the illegal acts of their agents, and hence they are answerable in conscience they may be of any intent to defraud.

One of the leading cases on this subject is *Brewell vs. Christie Cooper*, 10 Ves. 395. This is followed by *Howard vs. Castle*, 6 Term Reps. 642, where the Court say, "If the owner of goods or an estate put up the to sale at Auction employ a person to bid for him without declaring it it is a fraud on the real bidders and the highest bidder cannot be compelled to complete the contract."

In *Monroe vs. Goldborough* 4 At. Eq. M.C. 282, it was decided that "if a party be employed by the trustees or either of them, as a by bidder at the sale of the lands in question without his being known by the purchaser to be a by bidder previous to the lands being knocked down to him, and that he did bid at the sale with a view to increase the price of the lands for the benefit of the trustees the sale is void."

The facts and proof in the cause now before the Court clearly bring it within the law as laid down and established by the decisions just cited, and Court must sustain the third and fourth objections.

The seventh and only remaining objection is because the answer of Sophronia (meaning Johnnie Trundle, she being between eighteen and twenty one years of age) assigned in person, and not by Guardian

The Code Art. 18, Sec. 29, directs that "when an infant Defendant is returned summoned the Clerk may issue a Commission to some discreet person to assign a Guardian for and to take the custody of said Infant. The minority of Infants continues, at Common Law, until they are twenty one, but then are under wards of themselves by some Statute, for which it ceases at eighteen but I do not find that any power has been conferred on them to answer Writs in Equity or suits at Law before attaining the age of twenty one. This objection must therefore be sustained. All the objections assigned by the exceptant having been disposed of, the Court will pass an order respecting the Report of Sale made by the trustees. It is thereupon this 4th day of September A.D. 1873. by the Circuit Court for Frederick County as a Court of Equity and by the authority thereof, ordered and decreed that objections one, two, five six eight and nine be and the same are hereby overruled; and that objections three, four and seven be and the same are hereby sustained; & it is further ordered and decreed, by the authority aforesaid, that the sale made and reported by the trustees in this cause, be and the same is hereby set aside and rejected.

And it is further ordered that the costs of this proceeding be paid out of the Estate.

Entered Filed Sept. 4th 1873

John Lynch
Judge of the Cir. Court,

Trustees Pet.
for Sale
of Lands ordered

William H. Trundle et al

vs
Samuel H. Trundle et al

No. 2716, Equity
In the Circuit Court for Frederick County
sitting in Equity.

To the Honorable the Judges of the Circuit Court
for Frederick County sitting in Equity,

The Petition of William H. Trimmer, Arthur Comwell & Samuel H. Trundle