port: alleging, that the Chancellor, on application, had declared it to be his opinion, that he had no authority to decree in such case: that is, as is presumed, that he had no authority to decree, at their instance, that the assets should be so marshalled; and upon this ground, as it seems, the Legislature, on the 10th of January, 1818, passed an Act, 1817, ch. 46, authorizing Thomas Sellman as trustee to sell, at public sale, upon such terms as the Chancellor should direct, all the equitable interest in the real estate which had so descended to the minor children of the late John Cross; and, from the proceeds, to pay the purchase money; and the balance to be disposed of as the Chancellor should direct; or to pass to those children as realty; and, if Sellman the trustee should die, the Chancellor was authorized to appoint a successor.

In pursuance of this Act of Assembly, Sellman, on the 27th of the same month, filed his petition to the Chancellor, who, on the same day, passed a decree accordingly, specifying the terms of sale. Upon which Sellman, on the 6th of October, 1818, made a sale of the equitable interest of the children of Cross to Benjamin Armiger, by whom a part of the purchase money was paid, and the residue secured by bonds and a note with surety, which were
521 * made payable "to Thomas Sellman trustee for the sale of the real estate of John Cross deceased." After which, and before he had reported the sale, Sellman died, and James Iglehart, Jun'r, was appointed to succeed him as trustee; who made a report of the sale, and that he had the money received and also the bonds taken then in his hands. This sale was finally ratified on the 19th of March, 1819; and, by an order of the 28th of April following, the proceeds were made payable to this same James Iglehart, who was also appointed trustee in the place of Sellman under the decree of the 12th of December, 1816, leaving a balance still due from the late John Cross' estate to the late Selby's estate, as shewn by statement taken from the report of the late Thomas Sellman, who had made and reported a sale under the decree in that case, which had not been finally ratified until the 27th of January, 1818.

In which suit, for a partition of the late Joseph Selby's estate, the auditor, on the 1st of April, 1818, made and reported a statement of a distribution of the proceeds of sale, allotting one share of the estate of the late Joseph Selby which had been sold to John Cross, to the said John and Jemima his wife, which was ratified on the same day. On the 29th of April, 1819, Iglehart the trustee, by petition, applied to be directed as to whom the share awarded to John and Jemima was to be paid. Upon which the Chancellor passed the following order.

"KILTY, C., 1st May, 1819.—On considering the within application, I am of opinion, that the part of the proceeds of Joseph