

M. Helms made an appointment in nature of a will, as allowed by the decree and soon after died; so that the case abated. A bill of revivor was filed, which being answered, and the case submitted, a decree was passed on the 22d of June, 1832, by which the principal matters in controversy, were, in accordance with the previous decree, finally determined.

BROWN v. WALLACE.

AUDITOR'S REPORT.—INTEREST.—PURCHASER PENDENTE LITE.—JUDICIAL SALES.

The auditor having awarded to each claimant a dividend on the whole amount of his claim, including interest up to the day of sale, the report was confirmed, and the proceeds directed to be applied accordingly, with interest on the commission and dividends in proportion as it had been or might be received. (a)

According to the terms of the usual decree for a sale, the purchaser pays interest whether he gets possession or not. (b)

No sale of a party *pendente lite* can affect the title of the purchaser under the decree. (c)

The report of the trustee, when confirmed, is conclusive as to the terms of the sale.

When land is sold by the acre, a survey and measurement, to ascertain the amount, is granted as of course.

In what cases land may be said to be sold by the tract or by the acre.

A purchaser, cannot impeach the sale on the ground, that more had been sold than was necessary.

The * rule *caveat emptor*, applies to all judicial sales; the operation of this rule. **586**

Courts of equity, having concurrent jurisdiction, should not be brought into collision: how such collisions may be avoided.

IN order that the opinion of the Court upon the two cases which, under the name of Brown against Wallace, were together brought before it, discussed, and submitted for judgment, may be fully and correctly understood, it will be necessary to make a report of the previous case of *Mitchell* against *Mitchell* instituted in this Court, out of which those cases arose, and upon which they were founded.

On the 23d of May, 1811, a bill was filed here by James Mitchell and Aquila Mitchell, infants, by Abraham Jarrett, their guardian, against Parker Mitchell, Kent Mitchell, William Mitchell, Sarah

(a) See *Brown v. Wallace*, 4 G. & J. 479.

(b) See *Hammond v. Hammond*, *ante*, 307, note.

(c) See *Campbell's Case*, *ante*, 210, note as to *lis pendens*, and in addition to the cases there cited, *Sanders v. McDonald*, 63 Md. 503.