

Mitchell, John Hughes, and Charlotte his wife, Thomas Herbert, and Elizabeth his wife, Samuel Hopkins, and Mary his wife, Joseph Hopkins, and Clemency his wife, Thomas Chesney, and Hannah his wife, all of full age, and Edward Mitchell and Ann Mitchell, infants. The bill states that James Mitchell, the father of the plaintiffs, died some five years previous intestate and seized in fee simple of several parcels of land, which descended to his children and heirs, Martin Mitchell, Kent Mitchell, Bennet Mitchell, and Harriett Mitchell, with these plaintiffs, James Mitchell and Aquila Mitchell, that upon the petition of James and Aquila to Harford County Court, under the Act to Direct Descents for a partition of the land so descended, a commission was accordingly issued and returned to that Court, stating that, by reason of a valuable fishery, it could not be divided without loss, and that the lands had been valued altogether at \$9,830. Upon which, on the 15th of March, 1810, William Mitchell, being the purchaser of Martin Mitchell, the eldest heir's share, came into that Court, and elected to take the lands at the valuation. Since which election, William Mitchell had died intestate, leaving these defendants his heirs, and without having paid to these plaintiffs any part of the value due to them; that administration on the personal estate of William Mitchell, deceased, had been granted to the defendant, and that the personal estate of the intestate William was altogether insufficient to pay his debts. Whereupon the bill prayed that the said lands, which were at law and in equity charged with the plaintiff's demand, might be sold to pay the amount due to the plaintiffs. *Jarrett's Lessee v. Cooley*, 6 H. & J. 258.

587 * On the 21st of December, 1811, the defendant Parker Mitchell put in his answer, in which he admits the proceedings in Harford County Court, for a partition of the intestate James' estate among his six children, the election of William, and also the fact of his having purchased the share of Martin Mitchell, as stated in the bill; and then says that his father, the intestate William, had moreover purchased one-half of the share of Bennett, the other half of which was purchased by this defendant, who had also bought the share of Kent Mitchell, another of the heirs of the intestate James; and that there was a very valuable fishery upon the land called Cooley's Fishery, for which an action of ejectment had been brought, and was then depending. Upon all which this defendant submitted, that if a decree should pass for a sale, that the fishery should be retained, or not sold until necessary, &c.

The other adult defendants, by their answer, filed on the 22d of December, 1811, say that they have no general knowledge of the matters set forth in the bill; but do not deny the truth of its allegations, and recommended a sale. The infant defendants put in