

did sell the whole of said property in the manner herein before stated."

Upon which, on the 27th of February, 1813, the usual order *nisi* was passed; and, no cause having been shewn, the sales, as thus made and reported, were, on the 15th of July, 1813, finally ratified and confirmed. Some time after the trustee had thus made his report of the sales, Freeborn Brown gave his bond with William Brown as his surety for the payment of the purchase money; and Freeborn Brown was soon after put into the actual possession of lot No. 11, as the purchaser thereof, by the trustee.

After which William Cole, by his petition, stated, that he had purchased as reported by the trustee; but that the tract of land called Convenience, of which the lots he purchased were parts, was sold by the acre, and that it was distinctly understood, at the time of the sale, that a deduction should be made for any deficiency; * and that he being the last purchaser, the deficiency all fell on him, as he was to take the residue. On which petition **590** the trustee Wallace certified as follows, that on the day of sale he made it known, "that, if upon an accurate survey it should be found, that the tract called Convenience did not contain fifty-six acres, that the deficiency should be deducted from the last lot of said tract sold, containing six acres, and the purchaser credited with the price. Mr. William Cole was the purchaser, and the price per acre will appear by reference had to my report. The said tract has been since surveyed by Mr. Osborn, who certifies, that it contains only fifty-four acres, which I believe to be correct."

KILTY, C., 22nd February, 1814.—Ordered, that the trustee credit the principal of the petitioner's bond with the price of two acres of lot No. 6, viz. \$40.

The auditor in a report bearing date on the 17th of June, 1814, said, that he had, at the request of the said Abraham Jarrett, stated an account between the estate of the said William Mitchell, deceased, and the heirs at law of James Mitchell, deceased, in which the intestate William's estate was charged with the valuation of the intestate James' estate. William's estate was then credited by one-sixth of that sum as the portion of Martin, the eldest heir of the intestate James, and also by one-twelfth of that sum, being the one-half of the portion of Bennet, another heir of the intestate James, which it was stated, in the defendant Parker Mitchell's answer, were purchased by the intestate William in his life-time; but whether those portions had been paid for, did not appear; there being no evidence upon the subject. The auditor further said, that he had then apportioned the balance, \$7,372.50, due from the estate of the intestate William, to Harriet Mitchell, one-sixth; to James and Aquila Mitchell, the complainants, one-