

The position here assumed is in direct opposition to the terms of the decree; of the trustee's report; and of the instrument of the 29th of April, 1812. There is nothing upon the face of those documents, taken either separately or together, by which this position can be sustained. But Freeborn Brown must, in this respect, take upon himself one of two characters. He must stand either as a purchaser under what he calls the power of the 29th of April, 1812, or as a purchaser under the decree of this Court. He cannot blend the two, and take advantage of both at the same time.

If he bought under the power, then he is a purchaser direct from the heirs of the late William Mitchell, and this Court has no jurisdiction of the matter in any way whatever in this case. Those heirs, in that respect, were not under the control of this Court; they were entirely free to sell any right or interest of theirs as they might think proper, either in person or by James Wallace as their attorney. But it is perfectly evident that they could not, by giving a power of attorney to James Wallace to sell for them, who was also at the same time acting as the agent or trustee of this Court, thereby mingle any of their separate interests with the subject with * which this Court was then dealing; they could
598 not, thus uninvited, thrust their own individual interests into a cause which was under the direction of the Court for the benefit of others as well as themselves. Therefore, in this view of the subject, the instrument of the 29th of April, 1812, must be deemed entirely foreign from the matter under consideration. *Weems v. Brewer*, 2 H. & G. 397.

If, on the other hand, Brown takes his stand as a purchaser from the Court, then, on recurring to the decree and trustee's report, it will be seen that the decree covers the whole subject, and that the trustee has confined himself strictly within the limits of the decree. The bill had stated that two of the heirs of the late William Mitchell were minors, and they had answered as such; the trustee had again incidentally reminded the Chancellor that one of them at least was then a minor, in that part of his report in which he speaks of their desire to have all the land sold. After this, it seems strange to object that the Chancellor had ratified the sale under a mistaken impression that all those heirs were of full age; on the contrary, it is manifest that, from beginning to end, the Chancellor was perfectly aware that he was dealing with the property of infants. There could have been no mistake in this particular. It is said that the instrument of the 29th of April, 1812, induced the Court to sanction the sale of the whole, which it otherwise would not have done. But the Court had previously decreed the sale of the whole, or "such part of the property in the proceedings mentioned as may be sufficient to pay the sums due from William Mitchell to the heirs of James Mitchell," excepting Cooley's Fishery; and no more having been sold than was thus authorized