

of August following, William J. Barry, one of the heirs at law of said Robert Barry, and one of those who had sold his interest in the above mentioned property to John Glenn, filed a petition, stating that the trustee both before and after his appointment, contracted, and agreed to charge no commission, and praying that the Auditor's accounts allowing him the same, might be corrected and that the interlocutory orders of the 8th and 18th of November, 1844, and those ratifying the Auditor's accounts, might be vacated and set aside. A petition with similar averments was filed by John Glenn, who also stated that he had purchased five of the seven parts into which the property was to be divided, relying upon the assurances of the trustee that he would charge no commission for his services, and prayed that the same might not be allowed. The answer of the trustee to the petition of William Barry, with which his answer to that of said Glenn substantially agreed, stated, that it was thought at one time that the property could be sold by an agent, in which case he promised to undertake the duty as a friend of the heirs, charging no commission for selling and distributing the money, but that he never contracted to make no charge as trustee under the appointment of the court. That, could the property have been sold under the decree in a reasonable time, and without involving him in extraordinary labor and trouble, he had intended charging no commission beyond what would cover his expenses, and to that extent believed he had expressed himself. The trustee also denied that he had contracted to make no charge for renting the property, &c. ; he admitted, that after the sale, he had mentioned to the purchaser that he did not design charging a commission on the purchase money, but upon reflection he had since determined to submit the question to the court, in view of his trouble in discharging the trust.

A great deal of testimony was from time to time taken in the case, and the questions presented by the petitions having been argued before the Chancellor, he at this term delivered the following opinion:]