

The second objection is, that the trustee did not in fact sell the interest of the parties to the suit, but only the interest and title of which James Cunningham died seized.

The purchasers, in their answers to these exceptions, take a different view of the matter ; but conceding that this exception states truly the nature and extent of the interest purchased by Markell, still this seems to be an objection, which only the purchasers themselves could take, as they, and they alone, are injured by it. Besides, it may not be unworthy of remark, that the sale reported by the trustee, disposed of precisely that interest in the lands of which Cunningham died seized ; and the answer of Wayman to the bill under which they were sold, states, "that he died seized in fee for the several tracts of land named and described in the bill of complaint."

The third objection has reference to the cloud upon the title, which, it is supposed, might readily have been removed, but which the trustee was not in a condition to remove by reason of his ignorance of facts known to Wayman, one of the objectors.

This objection may, perhaps, be open to the observation, that if Wayman knew any fact which would disperse the cloud which hung over the title, and omitted to communicate it to the trustee in due time, it does not become him, when a sale has been made, upon the ratification of which other parties, interested in the proceeds, are insisting to interpose an objection upon that ground.

It is true, that when a sale is objected to upon the ground of inadequacy of price, which inadequacy may be traced to doubts about the title, it becomes material to inquire, whether the trustee might not, by reasonable efforts, have removed the cloud ; and if the court can see that such efforts were not used, the question, whether the sale shall, or shall not be ratified, may be affected by such neglect. *Glenn vs. Clapp*, 11 G. & J., 1.

But from the very nature of the doubt about the title in this case, it was impossible that any diligence on the part of the trustee could remove it. The opinion of counsel might be taken upon the subject, but nothing short of the judgment of the court could solve the question. It appears by the proceed-