

the exceptions, which is not admitted in the answer of the trustee, relates to the statement in regard to the understanding between him and Dr. Herbert, prior to the sale to Mr. Davis. The trustee says, "that when he parted from said Herbert at the last interview which he had with him prior to the sale to the said Davis, he did not understand that no sale was to be made by him, without further conference or communication with said Herbert." "Something was said about a future sale at such interview, but the trustee understood it to refer to a public sale, the time for which was to be a matter of consultation with said Herbert," and the trustee regrets the misunderstanding between himself and said Herbert.

Evidence has been taken under an order, and it very clearly appears that at least \$20 per acre could have been obtained for the property, and there is the strongest ground for believing that that price could now be had.

When the trustee deviates from the terms of sale prescribed by the decree, there can be no sort of doubt that objections to its ratification will be allowed to prevail, which, if urged against a sale made in conformity with the terms, would be disregarded, and perhaps no deviation could render a sale more obnoxious to objection than selling at private when the decree directs a public sale.

When a sale is made in all respects according to the terms of the decree, and neither fraud, mistake, or misrepresentation can be alleged against it, the faith of the Court is pledged to ratify and perfect it, but when the terms are departed from, there cannot possibly be any sort of obligation on the part of the Court to sanction it. The trustee is the mere agent of the Court, and if he does not conform to the authority delegated to him, it is for his principal to say, when he makes report of his proceedings relative to his agency, whether it will ratify his act as such. His instructions are contained in the decree, open to the inspection of all parties interested, and if he does not follow them, certainly no one dealing with him has a right to complain if the Court should withhold its sanction when called upon to confirm his act. It is perfectly true, as has