

children. One of whom, *Jemima*, with her husband *John Cross*, and others, filed a bill in this court, alleging, that the estate, which had so descended to them, would not admit of partition without loss; and therefore prayed, that it might be sold and the proceeds divided among them. It was decreed accordingly, on the 12th of December 1816; and *Thomas Sellman* was appointed trustee to make the sale. In pursuance of which authority he reported, that he had sold the property to *John Cross*, who had given bond as required for the purchase money; and, on the 29th January 1817, an order was passed to confirm the sale unless cause shewn. On the 8th of March following *John Cross*, the purchaser, died intestate, and without having paid the purchase money, leaving three minor children, his heirs, to whom the real estate so purchased descended.

The minor heirs of *Cross*, by their next friend, petitioned the legislature for a special act, authorizing the sale of the interest so purchased by their father, in order to save the fee simple estate which had descended to them, and also the personal property, agricultural implements, &c., which were necessary for their support: alleging, that the Chancellor, on application, had declared it to be his opinion, that he had no authority to decree in such case: that is, as is presumed, that he had no authority to decree, at their instance, that the assets should be so marshalled; and upon this ground, as it seems, the legislature, on the 20th of January 1818, passed an act,^(a) authorizing *Thomas Sellman* as trustee to sell, at public sale, upon such terms as the Chancellor should direct, all the equitable interest in the real estate which had so descended to the minor children of the late *John Cross*; and, from the proceeds, to pay the purchase money; and the balance to be disposed of as the Chancellor should direct; or to pass to those children as realty; and, if *Sellman* the trustee should die, the Chancellor was authorized to appoint a successor.

In pursuance of this act of Assembly, *Sellman*, on the 27th of the same month, filed his petition to the Chancellor, who, on the same day, passed a decree accordingly specifying the terms of sale. Upon which *Sellman*, on the 6th of October 1818, made a sale of the equitable interest of the children of *Cross* to *Benjamin Armiger*, by whom a part of the purchase money was paid, and the residue secured by bonds and a note with surety, which were

(a) 1817, ch. 46.