

Iglehart, as trustee under a decree of this Court, and purchased by the defendant Armiger, resold for the payment of the balance of the purchase money; on the ground, that the equitable lien of the vendor still subsisted in full force and unimpaired. The bill stated, that the bonds, taken by the trustee Iglehart to secure the payment of the purchase money, had been assigned, and were then held by the plaintiff McParlan, as the assignee thereof; and, that the defendants Selby and Watkins had agreed to guaranty their payment. Whereupon the plaintiffs prayed, that the land might be sold for the payment of the balance of the purchase money which had been secured by those bonds, and for general relief.

The defendants, Selby and Watkins, by their answer, admitted the facts as stated in the bill; but insisted, that a decree should pass, in the first instance, for the sale of the land; because they were, by their guaranty, only responsible upon an eventual deficiency of the land and the persons bound before them.

None of the other defendants having appeared, as required by the subpoena which had been served on them, an interlocutory decree was, on the 11th of December, 1828, passed against them, and a commission issued, under which testimony was taken and returned. Upon which the case was submitted.

BLAND, C., 10th January, 1829.—This case standing ready for hearing, and having been submitted on the notes of the plaintiff's solicitor, the proceedings were read and considered.

The circumstances and facts are these. Joseph Selby died intestate, seized of a certain tract of land which descended to his \*children. One of whom, Jemima, with her husband John Cross, and others, filed a bill in this Court, alleging, that **520** 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 sup-