

the sale the defendant (the execution debtor) paid or offered to pay to the sheriff the money due upon the *fi. fa.*

This is not made out. A witness called for the defendant stated that she was a witness to the tender and that this was before the sale; but she fixed the date by the fact that her child, which will be ten years old next August, was then six months old and suffering from illness. This will shew that she is mistaken in the date and that the tender was not made until the year following the sale. The defendant's son was called by her, and he stated that the tender was in the year after the sale.

The mortgages upon the land were upheld as valid in the former action of *Ferguson v. McPherson*. At my suggestion, the plaintiff in this action—a daughter of the defendant—agreed to accept less than the amount due to her upon the mortgages and in respect of the purchase money, and to allow the land to be redeemed. The plaintiff stated her readiness to accept \$2,000, although the amount due is some \$300 more than this. The land has so increased in value recently that it is now worth more than \$5,000.

The defendant refused to listen to this suggestion; seeking to go back of the former judgment.

From what took place at the trial, I am satisfied that the defendant, by reason of brooding over her troubles and from other causes, is not in a position to properly protect her own interests; and I think that before judgment can be given in this action she must be represented by a guardian or committee. I accordingly direct that the matter stand over until the necessary application is made. The case seems to be one in which the statute 1 Geo. V. ch. 20, may well be resorted to.

If upon a guardian being appointed he thinks that the plaintiff's offer should be accepted, then application may be made for judgment upon that basis; or he should have liberty to tender further evidence if he desires.

Inasmuch as I was given to understand that the action was only brought for the purpose of preventing the Statute of Limitations running and so barring the plaintiff's title, I would suggest that a settlement might be worked out by which the defendant would be allowed to remain in possession of the land during her life, and upon her death some benefit might be secured to the younger daughter, who is now living with her mother.