

THE CHANCELLOR :

The first objection taken to the sale is, that the public were not properly advised of the title in the property thus sold, which the trustee had the power to sell.

This objection rests upon the supposition, that the trustee should have stated in his advertisement, the names of the parties to the suit in which the decree passed, and the several deeds creating incumbrances upon the property.

The decree, it will be recollected, directs that the real estate of James Cunningham, deceased, in the proceedings mentioned, or so much thereof as may be necessary to pay his debts, be sold. It does not say in terms, that the title of the parties to the suit shall be sold, though no doubt a sale under the decree would pass such title.

The language of the advertisement is, "by virtue of a decree of the High Court of Chancery," there will be sold certain real estate, naming the tracts and giving their locality, of which James Cunningham died seized and possessed. It does not say, his title alone will be sold, but the lands, of which he died seized and possessed. The public was notified by this advertisement, that these lands were to be sold under a chancery decree, to which decree, of course, there must be parties, and I am of opinion, that in the absence of evidence, that competition in the purchase was prevented by the character of the advertisement, or that the sale was in any respect prejudiced thereby, it seems to me, it should not on this account be vacated. A reference to the chancery proceedings, to which the public was directed would have shown who were the parties and what title was to be sold. The trustee's advertisement referred to the fountain of his authority; described the lands to be sold by name and locality, and give such other information respecting them, as would enable persons disposed to purchase, to ascertain all that was material they should be informed of. The Chancellor does not think, from an examination of forms of the advertisement of chancery sales usually employed, that such precision as is insisted upon by the counsel for the parties objecting to this sale, has been supposed to be necessary.