

In making the selection of a person to be employed as a trustee, the Court exercise a sound discretion upon a view of the whole case; and as the Chancellor may allow himself to be actuated by feelings of benevolence upon such occasions, where he can do so without injustice to any one, he has therefore, as before observed, appointed the widow as trustee, that she might obtain the commissions for the benefit of herself and child. The recommendations of the parties are always attended to, and allowed to have their due weight as to numbers, amount of interest, and reasons assigned; where the parties are silent, it has been usual to appoint the solicitor of the plaintiff as trustee; but a plurality of trustees is never appointed except on special application by petition, motion, or suggestion. *Edwards v. Buchanan*, MS. 27th May, 1800; *Kilty v. Quynn*, MS. 5th February, 1805.

**144** \*The kind of duties required of a trustee, and the manner in which they are to be performed, are most usually particularly prescribed by law, or specified in the decree or order to be executed. But here a trustee is indulged with a greater latitude of discretion in making sales of property than is allowed to a master in Chancery in England. *Annesley v. Ashhurst*, 3 P. Will. 282. In all cases where the trustee is directed to put the property into the market, by advertising and offering it for sale, he must do so; but, after that has been done, if it cannot be sold, at public auction, upon the terms specified, he may accept of a bid upon different terms, or he may dispose of it at private sale, or upon other terms than those mentioned in the decree; because as he is, in all cases, required to make a report in writing of only such a sale as he can, on oath, state to have been, in all respects, fairly made, which cannot be ratified, without consent, until public notice has been given to shew cause, if any there be, why it should not be confirmed, there can be no danger or inconvenience in allowing him to deviate from the prescribed manner and terms of sale, after the property has, by advertisement and an actual public offer to sell at the time and place appointed, been completely put into the market. A trustee cannot, however, be allowed, of himself, to do any act which, in similar cases, is usually required to be done by such an agent; but which has not been particularly specified in the order or decree, under which he holds his appointment; as where, in a creditor's suit, the Court had omitted, in its decree, to direct the trustee to give notice to creditors to file the vouchers of their claims by a specified day, the trustee was not permitted, of himself, to give any such notice. *Isaac Williams' Estate*, MS. 3d December, 1823.

According to the common law, no public officer was permitted to take any fees for the performance of his duty, except such as were expressly allowed by law, as a compensation for his trouble. Yet it appears, that judicial, as well as ministerial officers were allowed to make title to certain fees and perquisites by usage, and