practice, so as to postpone the payment of the trustee's commission until the whole of his duties had been performed, or to authorize summary proceedings to be instituted, to make his representatives refund in part, with which the succeeding trustee may be compensated for his trouble in collecting the balance. Under such circumstances, it seems to be fair, by way of analogy to the rule laid down by the Legislature in regard to sheriffs and others; 1795, ch. 88, s. 6; 1813, ch. 102, s. 5; *Bac. Abr. tit. Sheriff, (I;)* to apportion the commission or poundage, where it can be done, between the preceding and succeeding trustee according to the sum which each may have collected, or on a consideration of the trouble and merits of each. But in this case the fund has been already charged with full commissions; and therefore should not now be again charged with more than a necessary recompense to the present trustee for his trouble; which in this, as in all similar cases, must be regulated according to the service actually rendered.

Whereupon, it is ordered, that this trustee be, and he is hereby allowed half commissions on the amount stated to have been received by him.

McKIM v. THOMPSON.

ORDER TO BRING MONEY INTO COURT.—SUPPLEMENTAL ANSWER.—RIGHT OF APPEAL.

To obtain an order upon a defendant to bring money into Court, before the final hearing, it must appear, that he who asks for such an order has an interest in the money proposed to be called in; and that he who has it in his hands has no equitable right to it; and the facts from which this appears must be found in the case as it then stands, either admitted or so established as to be open to no further controversy at any subsequent stage of the proceedings. (*a*)

A defendant cannot be allowed to put in a supplemental answer, except under very special circumstances.

The defendant must move to put in a supplemental answer, and accompany the motion with an affidavit, in which he must swear that when he put in the answer, he did not know the circumstances upon which he ap-

(*a*) Affirmed in *Dillon* v. *Ins. Co.* 44 Md. 394; *Contee* v. *Dawson*, 2 Bland, 266, 269; *Hopkins* v. *McEldery*, 4 Md. Ch. 24. Cited in *Smith* v. *Anderson*, 18 Md. 528. In *Dillon* v. *Ins. Co. supra*, the Court said, in concluding its opinion, that "though the practice of ordering money into Court has become one of the most ordinary methods by which the Court enforces its jurisdiction of preserving property in dispute pending a litigation, there are certain well-defined restrictions and limitations upon it, which Courts of equity should always be careful to observe. These limitations are well stated in the cases in our own State to which we have referred." See *Thompson* v. *McKim*, 6 H. & J. 303.