

to put an end to the suit. But for the purpose of enabling the trustee to collect the money, when it becomes due, it has been usual, and found convenient to allow him to retain the bonds and notes in his own possession. They are, however, so held by him at his own risk.

But the Court has never been informed by the trustee Basil Brown, what became of the purchase money arising from the sales made by him. He has brought none of it into Court; nor has he brought in any one of the bonds taken by him for securing its payment, except that of Duvall's, the amount of which, it appears, he himself afterwards received; and yet the whole amount of all the purchase money became due long before Brown's death.

It must be presumed, therefore, in this, as in all similar cases, where a trustee or agent undertakes and binds himself to collect money, or to bring into Court those vouchers, by means whereof it may appear whether he has collected it or not, and fails to do so, that the money has actually been collected by him, and he must be charged with it; unless he can satisfactorily shew, that it had not come to his hands, or been applied to his use. The greatest inconvenience and the most serious evils would arise, if trustees, appointed by this Court, were not held strictly accountable for the bonds taken, and money received by them. They undertake to perform duties of much importance, and to become the executive agents of the Court; and therefore must be rigidly held to a faithful discharge of the trust reposed in them, in all that relates to the receipt of money, or the securities taken by them for its payment. *Bennett v. Hamill*, 2 Scho. & Lefr. 566.

As the late Basil Brown might and ought to have collected the whole amount of the purchase money, it must be presumed that he did so, and consequently he must be held liable for the whole amount; unless his representatives shew, that without his default, it was not received by him, or that it did not come to the use of him or his estate. This they have failed to do. His estate, *therefore, must be charged with the whole amount of the **417** proceeds of the sales made and reported by him.

But although a negligent or unfaithful trustee may be thus held liable for the whole amount of any money which he undertook and became bound to collect, and of which he has failed to give any account whatever; yet the Court, by holding him liable, would not be understood as thereby, in any case, exonerating any purchaser, surety, or other person, or subject, from any liability or lien that might have been enforced for the recovery of the same money. The party interested may, in the first instance, obtain satisfaction from such security; or the delinquent trustee may be first made to pay, and be then left to take the place of the claimant, and, so far as in equity he may be permitted to do so, to seek relief from others as he can.