

Whereupon it is ordered, that the sale made to Lewis Reynolds, as reported by the trustee, be set aside; that the trustee proceed, without delay, to resell the estate as directed by the decree; that all the costs and expenses of this sale be paid by Lewis Reynolds; and that the auditor, in stating an account making a distribution of the proceeds of sale, deduct the same from the amount to which Lewis Reynolds may appear to be entitled.

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LATIMER v. HANSON.

DEBTOR AND CREDITOR.—CHANCERY PRACTICE.—INVESTMENT.

Where a bill has been filed for partition, creditors may come in on the ground of the insufficiency of the personal estate of the deceased debtor whose real estate is thus proposed to be divided. (a)

A person appointed trustee is not obliged to accept the office; but if he does so, he is bound to obey the orders of the Court.

The Court may order the proceeds of a sale in the hands of a trustee to be invested by him, so as to be made productive pending the litigation; and if the trustee fails or refuses to make the investment accordingly, he may be ordered to bring in the whole amount, with compound interest, from the date of the order directing the investment. (b)

The bill, filed on the 31st May, 1816, states, that the late Charles Wallace, by his last will, devised his real and personal estate to Leonard Sellman and Charles W. Hanson, to be by them, after the payment of his debts and certain legacies, divided among the plaintiffs and defendants; that Sellman is dead; that Hanson, the surviving trustee, holds the property and refuses to execute the trust; and that a partition of the real estate cannot be made without loss. Whereupon they prayed a sale and division of the proceeds. No opposition having been made to this prayer, a decree was passed the 1st of March, 1817, directing the real estate to be sold, and appointing Nicholas Brewer trustee for that purpose, who made sale thereof accordingly.

\* On the 9th of August, 1819, Sarah H. Smith filed a petition in behalf of herself and the other creditors of the late 52 Charles Wallace, stating, that in April, 1810, she had obtained a judgment against him in his life-time for £450 4s. 1d.; that she is informed that several judgments have been obtained against his executor, upon which executions have issued, which have been returned *nulla bona*; that she cannot obtain payment from the personalty; and therefore prays to be paid out of the proceeds of the

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(a) As to creditors' suits generally, see *Hammond v. Hammond*, 2 Bland, 306.

(b) Approved in *Ohio Trust Co. v. Winn*, 4 Md. Ch. 272.