

TRUSTS AND TRUSTEES.—*Continued.*

2. 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. *Ib.*
3. The Court of Chancery has the power in all cases, where it may be necessary, to appoint and employ a person as its trustee or agent to make sale of property for the purpose of executing a decree or order. *Gibson's Case*, 128.
4. It may appoint a woman or any competent person on the recommendation of the parties interested; or if they are silent, the plaintiff's solicitor is usually appointed. *Ib.*
5. But the Court will not appoint any one of its own officers, or any other officer to be trustee, the discharge of whose official duties may be incompatible with a proper attention to his duties as trustee; nor will the Court employ, as its trustee, an infant, *feme covert*, or non-resident. For negligence or improper conduct a trustee may be removed. *Ib.*
6. In general, the trustee, is to be regulated by the directions of the order or decree; but in making a sale, he may deviate from the mode prescribed by the decree, after the property has been put into the market, by advertising it for sale as directed. *Ib.*
7. Commissions, or poundage fees to trustees, are allowed by law and regulated by rule of Court. *Ib.*
8. The commission is given as a compensation for the performance of all the duties specified in the decree, and the subsequent order in relation to the sale, and its proceeds. *Ib.*
9. The trustee may employ an auctioneer. *Ib.*
10. The allowance of commissions to a trustee may be refused, diminished, or enlarged, according to the nature and circumstances of the case. *Ib.*
11. A trustee, under a decree for the sale of property, who fails to bring into Court, or to account for the proceeds of sale, or the bonds and notes taken by him to secure the payment of the purchase money, may be charged with the whole amount of the proceeds according to his report of the sales. But, by thus holding the trustee liable, the Court does not thereby virtually exonerate any one else. *Mackubin v. Brown*, 383.
12. A trustee cannot be permitted to apply a part of the proceeds of sale without any authority from the Court, and then to come in to have it allowed as set-off against the claim of the party to whom it was paid. *Ib.*
13. A trustee, who had been appointed to make sale under a decree, ordered to bring the purchase money with the bonds and notes received or taken by him, into Court, and displaced, because of his misconduct. *Mullikin v. Mullikin*, 505.

See DEBTOR AND CREDITOR, 1.

DECREE, 10.

EVIDENCE, 7.

LIEN, 10.