

this company not only have a right, but that it is their duty to extend the canal into the port of Washington, as being the most *central, and the chief port or pool of that space of tide in the District of Columbia, specified by their Act of incorporation, as the point of its eastern termination. And consequently that all expenditures of the corporate funds, in order to carry it down into the port of the City of Washington, at Rock Creek, or elsewhere within that port, are legitimate, and cannot be prohibited by injunction. **166**

Upon the whole, I feel perfectly well satisfied, from the facts and circumstances disclosed by these pleadings and exhibits, supposing them to have been presented as between proper parties and in the most correct form, that there is no ground whatever for granting, renewing, or continuing any injunction against The Chesapeake and Ohio Canal Company.

Whereupon it is ordered, that the injunction heretofore granted in this case be and the same is hereby annulled and dissolved.

And it is further Ordered, that the attachment heretofore awarded in this case be and the same is hereby quashed with costs.

It appears from an inspection of the docket entries as late as the 1st of January, 1839, that after this order no further proceedings had, up to that time, been had in this case.

WINDER v. DIFFENDERFFER.

PARTITION.—ACCOUNT OF RENTS AND PROFITS.—MODE OF TAKING EVIDENCE IN CHANCERY.—LIABILITY OF PARTY ASSUMING MANAGEMENT OF PROPERTY OF OTHERS.—SUBSTITUTION.—MARSHALLING OF ASSETS.—COMPOUND INTEREST.—COMMISSIONS OF TRUSTEES.

Where trustees under a will, not having authority to sell, refuse to act, on a bill, making such trustees and the *cestuis'que trust* parties, another trustee may be appointed.

The trustee, having the profits of the estate in his hands, ordered to pay the auditor's fees.

A decree for a partition among devisees, the costs to be paid by each in proportion to his share; and a decree to account for the rents and profits against the trustee by whom it was held.

A part of the property, appearing by the return of the commissioners to be incapable of partition without loss, decreed to be sold.

The mode of collecting testimony and taking the depositions of witnesses in England and in Maryland, under a commission.

No objection, coming from a party, to suspend the taking of the depositions before the commissioners; but such objections may be noted and decided at the hearing.