

visees shall be extended to defendants of full age. 1818, ch. 193, s. 2.

sonal assets, as well as to shew what are the just claims against the deceased; and the interference of this Court being obviously to the advantage of all parties.

It is Decreed, that the defendant James Carey, shall account for the personal assets in his hands, as executor of Francis McKenna, surviving partner of Parkin & McKenna, both in the right of the said McKenna alone, and of McKenna as surviving partner aforesaid. That the said Susannah Goodwin, as administratrix, with the will annexed, of Thomas Parkin, shall account for the assets in her hands. That the auditor of this Court shall state the said accounts, &c. He shall state the several claims of the complainants, &c.

And inasmuch as it appears that the claims of the complainants, although not yet precisely ascertained, will require a sale of the real estate in the bill mentioned, and the complainants have expressed their wish and consent, that the Chancellor decree an immediate sale: it is further Decreed, that the said two parts of the said two tracts of land, together with the improvements thereon, be sold: that Samuel Chase, Jun., be and he is hereby appointed trustee for the said sale, &c., &c.

The trustee, on the 15th of May, 1804, made sales of parts of the real estate, as directed by this decree; which sales, with the consent of the parties, were, on the 11th of October, 1804, finally confirmed; and the trustee was directed to give notice, by advertisement, to the creditors of Thomas Parkin, deceased, and of Parkin & McKenna, to file the vouchers of their claims in the Chancery office, on or before the 15th of February then next. After which, the auditor reported a statement of the claims which had been brought in and established, with interest upon each up to the day of sale, leaving a large deficiency in the proceeds of sale. Upon which, a further sale was ordered.

On the 19th of November, 1804, the defendants Hollingsworth and wife, by their petition, stated that the decree had been passed in their absence; that they had no knowledge of the dormant claims against the testator Parkin; that the personal estate was sufficient to pay all; and that the last order for a further sale had been obtained by surprise. Whereupon they prayed to be heard; and that no further sale might be made, &c.

HANSON, C., 20th November, 1804.—It is true that the decree was passed in the absence of Hollingsworth's counsel; but it was because his counsel did not attend the appointment which had been made; and because the suit, after some delay, was submitted, without argument to the Chancellor. The Chancellor, on revision of the papers, conceives that he was perfectly correct in decreeing the real estate of the deceased to be sold; and likewise in ordering a new sale. It appears that the claims, fully established, exceed the amount of the sales several thousand dollars, and that no opposition was made by the defendants to a second sale; and that the said petition contains the only objection which has been made to the proceedings. The Chancellor saw no reason then, wherefore the second sale should not take place. However, on the petition of the said Hollingsworth, it is Ordered, that the sale advertised by the trustee, Samuel Chase, be postponed until further order.

As Mrs. Hollingsworth is the sole representative of Mr. Parkin with respect to both real and personal estate; and as whatever surplus of the money arising from the sale of either would belong to her, the Chancellor did not