

should issue upon this certificate, and I shall, therefore, rule the *caveat* good, but as the question is a new one, and doubts may be fairly entertained in regard to it, I will not subject the party to costs.

ROBERT J. BRENT, }
 GEORGE G. BRENT, } for the Caveator.

JOS. H. BRADLEY, }
 NICH. BREWER OF JNO. } for the Caveatee.

WILLIAM H. CONKLING ET AL.
 vs.
 THE WASHINGTON UNIVERSITY
 OF MARYLAND
 AND
 EDWARD GREEN. } MARCH TERM, 1849.

[CONSTRUCTION OF DEEDS—POWER OF THIS COURT TO GIVE RELIEF WHERE A TRUST CANNOT BE EXECUTED ACCORDING TO ITS PROVISIONS—PARTNERSHIP.]

The Washington Medical College of Baltimore executed on the 24th of July, 1835, a deed of trust conveying to certain trustees therein named, upon the trusts therein expressed, a leasehold interest in a lot of ground, in the city of Baltimore. The deed recites, "that towards erecting a building on said lot, the sum of \$50,000 has been agreed to be contributed by various persons, who are to be identified by being the owners of certificates therein described, and that said college has agreed with said persons to secure the reimbursement of their respective contributions, and the payment of the dividends arising thereon, in the manner therein pointed out." The form of the certificates is then prescribed, each being for the sum "of \$60 part of said \$50,000, to be entitled to a dividend proportioned to its amount when the same shall arise, payable semi-annually by the treasurer, for the time being, of the college; said sum to be accepted by the party to whom the certificate is issued, or his assigns, in discharge, to that extent, of said deed, and of his claim to the property thereby conveyed, when tendered at any time after the 4th of July, 1845, by the grantors, or their assigns." The trusts are, 1st. That the grantor shall occupy and use the property, and receive the rents and profits thereof until sold and disposed of as is therein provided. 2nd. That if the dividends on said certificates shall be in arrear, and unpaid for one year from the date thereof, then it shall be lawful for the grantees to sell the property, and out of the proceeds, pay and reimburse the owners of said certificates the full amount of the principal moneys mentioned in