

Hollins. It was to be held by the trustees subject to his order and control, or the order and control of his executors or administrators.

I am therefore of opinion that the fund remaining in the hands of the trustees, after paying the expenses of the trust, the commissions to the trustees, the dividends of the creditors who have executed releases, and the United States, is payable to the complainant, as the administrator of John Hollins.

It appears by an agreement filed on the 8th of April, 1850, that the United States has been paid, and that the balance of the trust fund now in the hands of the trustees is the proportion thereof which would have belonged to the creditors named in the deed who did not execute the required release, if they had signed it. It is therefore supposed the Court might now pass a decree for the payment of the five thousand dollars claimed by the bill, but as I am not quite sure whether all the expenses of the trust have been provided for, and the five thousand dollars is the precise sum for which a decree shall pass, I will refrain from signing it now. The counsel may prepare a decree in which a provision must be inserted for the payment of the costs of this cause out of the fund. The trustees were, under the circumstances, perfectly justifiable in declining to part with the fund until protected by a decree.

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BROWN and BRUNE, for Complainants.

CHARLES F. MAYER, for Defendants.