

JOHN GLENN AND OTHERS,
 vs.
 MARGARET WOOTTEN AND OTHERS.

} JULY TERM, 1851.

[TRUSTEE'S SALE SET ASIDE FOR WANT OF NOTICE.]

A DECREE directed the trustee to give "at least three weeks notice, inserted in some newspaper," &c., "and such other notice as he may think proper, of the time, place, and terms of sale." Upon the day duly appointed for the sale the weather was inclement, no bidders were present, and there was no attempt to sell, and the trustee advertised the property to be sold four days thereafter, which advertisement appeared but once in the paper. HELD—That the failure to give the notice as prescribed by the decree, was a fatal objection to the validity of the sale.

A departure from the regulations of the decree in any essential respect, without first attempting to sell in conformity with them, will always prevent a ratification, if objection be made.

But after the trustee has once offered the property in the market, in the mode prescribed by the decree, and has been unable to sell it, he may dispose of it in a different mode, and then it is for the Court to say whether it will ratify the sale or not.

When the trustee sells in the mode and upon the terms prescribed by the decree, the Court has, by anticipation, bound itself to make good the sale, and will always do so, unless fraud, accident, surprise, mistake, or some cause is shown, manifesting gross want of discretion in the trustee.

But the faith of the Court is never pledged to ratify a sale made upon terms, or in a mode varying from the decree, even though the property has been once put in the market, in exact conformity with it, and the attempt so to sell has been unsuccessful.

The direction in the decree to give public notice is most essential, because without it competition can rarely be secured.

[The real estate of William T. Wootten, deceased, was decreed to be sold, under the proceedings in this case, for the purpose of paying his debts. The decree directed the trustee to give "at least three weeks previous notice, inserted in some newspaper printed in Prince George's County, and such other notice as he may think proper, of the time, place, manner, and terms of sale," which were one-third cash, and the residue in two equal annual instalments. The trustee, Mrs. Margaret Wootten, in her report states, that having advertised the land