

the decree of December, 1827, by which he and Joshua Higgins were appointed trustees, to sell certain of the slaves that the accounts in that case should be settled, and that even if settled, these complainants must seek their remedy upon his bond, and cannot under the bill in this case have any relief in respect of those accounts.

It must be remembered, however, that by the agreement of parties, the proceedings in relation to the trust under the will of Mrs. Maccauley, and upon the bill filed on the 15th of October, 1827, are introduced and made evidence, and although the bill filed in this case does not refer in terms to the trust created by the bill of October, 1827, yet looking to the whole scope and object of the present application to this court, it seems sufficiently obvious that the defendant, Higgins, was called upon to account for the whole trust connected with this property. And the proceedings in all the cases being before the court by agreement, I do not think there is any rule of chancery pleading which will debar the complainants from the right now in this case to have those accounts examined and adjusted.

It is, moreover, by no means clear, that all the sales were made by the defendant, Higgins, under that decree. He reported the sale of but three slaves, and in his testimony he speaks of the sales as having been made by him when acting as trustee and manager, and speaks of the proceeds of such sales, and of the crop made on the land, constituting a part of the trust estate in the same way, and as having been indiscriminately appropriated to his own use. There is, therefore, great difficulty in determining whether in making the sales other than those which he reported to the court, the trustee, R. W. Higgins, was acting under the order of the 8th of October, 1827, which substituted him and Joshua Higgins as trustees, to complete the trust created by the will of Mrs. Maccauley, or under the decree of the 6th of December of the same year, by which they were authorized to sell the negroes therein mentioned.

But conceding for the sake of the argument that the sales were all made under the latter decree, and that the accounts of