

lapse of time the trustee must not only be presumed to have received the purchase money, but is responsible for it whether he received it or not. Upon a creditor's bill, the claim of the complainant creditor as stated in his bill, is ascertained and established by the decree. Real estate was directed by a will to be sold by the executor for the benefit of all parties interested in the estate, which was accordingly sold by the executor under the act of 1831, ch. 315, sec. 10. HELD—That the proceeds of such estate is to be treated as a portion of the personal assets, and is liable for the debts of the testator.

[The facts of this case are fully stated in the following opinion of the *Honorable Nicholas Brewer*, Associate Judge of the Third Judicial District, to whom the cause was certified by the Chancellor, he having been the counsel for one of the parties thereto.]

OPINION BY JUDGE BREWER:

This cause having been referred to me by certificate of his honor, the Chancellor, of the 19th of January, 1845, was argued by counsel on the part of the defendants, petitioners, and Henry H. Dent, executor of James Brawner, on the petition of Isaac Maddox's heirs, and on exceptions to the report of the Auditor of the Chancery Court.

A decree passed in Charles County Court for the sale of the real estate of Isaac Maddox, November 26th, 1830, for the payment of his debts, and James Brawner was appointed trustee, who made and reported the sale November 30th, 1831, which was duly confirmed, it is presumed, although no final order of ratification is found among the papers.

No account was passed distributing the proceeds, and on the 30th of November, 1834, the heirs, who were infants when the decree passed, filed their petition, praying that the purchase money might be brought into court, upon which an order, *nisi*, was passed to bring it in, but subsequently, on the 14th of June, 1843, and the 18th of June, 1844, orders were passed referring the cause to the Auditor, who reported two accounts, A. and B., and on the 15th of August, 1844, account C., charging the trustee with the proceeds of sale, and distributing them among creditors. To these reports and accounts objections were filed