

TRUSTEE AND CESTUI QUE TRUST—*Continued.*

That in the distribution of the fund, under *this bill*, the accounts of the trustee, who sold some of the negroes under the decree of 1827, and appropriated the proceeds to his own use, could be inquired into and settled, and the amount so appropriated by him, with interest, deducted from his share of the fund. *Higgins vs. Higgins*, 238.

4. There is but one trust in this case, though it has been cut up into several distinct proceedings, and now, when a final disposition of the whole fund is about to be made, it is indispensable to justice that all the proceedings should be brought together by an order of consolidation. *Ib.*
5. The trustee, acting under the decree of the Court of Chancery of 1827, is entitled to a commission of *seven and one half per cent.* on the income of the real and personal estate. *Ib.*
6. A trustee for the investment of certain trust funds, for the benefit of certain *cestui que trusts*, paid a portion of the trust money into the Court of Chancery under its sanction, which remained there for some time uninvested. HELD—  
That he was not responsible for interest on the sums so paid into court for the time during which they remained uninvested. *Wayman vs. Stockett*, 495.
7. Upon petition of a *cestui que trust*, the Chancellor passed an order directing certain mortgages belonging to the trust estate to "be forthwith closed," and that the *cestui que trust* "have leave to cause a suit or suits to be instituted for that purpose, in the names of the trustees, in such manner as may be most proper, necessary and beneficial to him." HELD—  
That under this order, the *cestui que trust* might file a bill to foreclose a mortgage executed by one of the trustees to the trust estate, and was not confined to a proceeding by way of petition in the original cause. *Ib.*
8. If any portion of the trust fund has been misapplied or destroyed, it is the duty of the trustee to communicate the fact to the court, and ask its sanction of the measures adopted by him to obtain redress. *Wayman vs. Jones*, 500.
9. If a trustee acting on his own responsibility, receives any property from the party misapplying the trust fund, either in payment or as security for the payment of the amount due the fund, he must put the transaction in such a position that its character may be easily understood, and any bad consequences flowing from the obscurity of the transaction, must fall upon him. *Ib.*
10. Though a portion of the trust fund is entrusted to the supervision and control of one of two trustees, yet if any fact endangering its safety comes to the knowledge of the other trustee, he is bound to see to its security and communicate the fact to the court and his co-trustee. *Ib.*