

The kind of duties required of a trustee, and the manner in which they are to be performed, are most usually particularly prescribed by law, or specified in the decree or order to be executed. But here a trustee is indulged with a greater latitude of discretion in making sales of property than is allowed to a master in chancery in England.(j) In all cases where the trustee is directed to put the property into the market, by advertising and offering it for sale, he must do so; but, after that has been done, if it cannot be sold, at public auction, upon the terms specified, he may accept of a bid upon different terms, or he may dispose of it at private sale, or upon other terms than those mentioned in the decree; because as he is, in all cases, required to make a report in writing of only such a sale as he can, on oath, state to have been, in all respects, fairly made, which cannot be ratified, without consent, until public notice has been given to shew cause, if any there be, why it should not be confirmed; there can be no danger or inconvenience in allowing him to deviate from the prescribed manner and terms of sale, after the property has, by advertisement and an actual public offer to sell at the time and place appointed, been completely put into the market. A trustee cannot, however, be allowed, of himself, to do any act which, in similar cases, is usually required to be done by such an agent; but which has not been particularly specified in the order or decree, under which he holds his appointment; as where, in a creditor's suit, the court had omitted, in its decree, to direct the trustee to give notice to creditors to file the vouchers of their claims by a specified day, the trustee was not permitted, of himself, to give any such notice.(k)

According to the common law, no public officer was permitted to take any fees for the performance of his duty, except such as were expressly allowed by law, as a compensation for his trouble. Yet it appears, that judicial, as well as ministerial officers were allowed to make title to certain fees and perquisites by usage, and custom; and although it would seem, that no petty pecuniary charge should be permitted to intercept an extension of mercy, intended to save the life of a fellow creature, yet it is said, that in England, if a person pleads his pardon, the judges may insist on the usual fee of gloves to themselves and officers before they allow it.(l) Before

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(j) *Annealey v. Ashhurst*, 3 P. Will. 292.—(k) *Isaac Williams' Estate*, MS., 3d December, 1823.—(l) Co. Litt. 368; 2 Inst. 209; 3 Jac. L. Dict. 24.