

thereof, or that the same is justly chargeable on the funds deposited in this court. And he also pleads, and relies upon, the act of limitations of 1715, ch. 23, s. 7, as a bar to the judgment.

29th August, 1825.—BLAND, *Chancellor*.—The trustee having made a further report on the 14th of July last, shewing cause in obedience to the order of the 17th of March last, the parties were heard by their counsel, and the proceedings and proofs in relation thereto were read and considered.

It is conceived there can be no doubt, that this court has the power to make such an order as that of the 31st December 1821; and, under the then circumstances of this case, its propriety was evident. (a) A person who is appointed a trustee by this court is not bound to accept the trust; or to continue in the office longer than he chooses; but, so long as he does consent to act in that capacity, he is bound implicitly to obey the orders of the court. In this case the trustee might have refused to take upon himself the risk, and trouble of executing the order of the 31st December 1821; but, if he thought proper to refuse, he was bound immediately to apprise the court of his determination, and to bring in those proceeds, then in his hands, which the court had told him should remain no longer idle, but be made productive in the manner pointed out; and, not having done so, he is clearly chargeable with interest.

Whereupon it is Ordered, that *Nicholas Brewer*, the said trustee, forthwith bring into this court the sum of \$1393 22, as stated by the account marked C. as part of the auditor's report returned on the 6th of July last, together with interest on the said sum of money from the 6th day of April last.

Some time after which, the case was again brought before the court, by a motion of the solicitor of the representatives of the late *Charles Wallace*, the petition of *Sarah H. Smith*, and others, filed on the 18th August, 1825, having been dismissed.

30th March, 1826.—BLAND, *Chancellor*.—Ordered, that the auditor's statement of the 2d July, 1825, be ratified and confirmed; and that the trustee apply the proceeds accordingly, with a due proportion of interest, that has been or may be received, towards the payment of such of the said claims as may remain due and unpaid after the payment of the sum now in bank; for the payment of

(a) *Spring v. The South Caro. In. Comp. 6 Wheat. 519; 1 Harr. Pra. Chan. 256; 2 Fowl. Exch. Pra. 287.*