

cient to pay all; yet if it appears, that there is still a portion of it to be accounted for, and distributed, then the same decree, which directs a sale of the realty, should also require the executor, or administrator to account for the personalty; and, if the creditors have not been previously called in, the same decree should moreover direct the trustee appointed to make the sale, to give them notice, at the time of advertising the real estate for sale, to file the vouchers of their claims in the chancery office.

Such a decree virtually takes possession of the property and vests it in the court, for the purpose of distribution; (*k*) and, consequently, the court may thenceforward exercise over it all such control and authority as may be necessary for its beneficial preservation. If it cannot be immediately sold, it may be rented, or disposed of in the mean time, to the best advantage; (*l*) the committing of any waste upon it, may be prohibited by injunction; (*m*) or a receiver may be put upon it to collect and take care of its rents and profits. (*n*) The trustee appointed to make the sale, being the mere agent of the court; (*o*) it is the court who must be regarded as the vendor; and as the holder of the vendor's equitable lien. (*p*) The trustee, without incumbering the report of his proceedings, with any thing more than a concise reference to the decree; and a brief averment, that he had, in all respects, complied with its directions; or if not, with a statement of the way in which he had departed from those directions, should clearly and distinctly set forth the date and terms of the contract of sale which he had made with the purchaser, naming him; and which contract he thus submitted to the court for its confirmation or rejection.

So soon as the court has, by a decree, assumed the general administration of the assets, it will on motion or petition; (*q*) and without, as formerly, a second bill filed for that purpose, (*r*) interpose by injunction; and stop in its progress to judgment, an action at law, brought by any creditor for payment of his debt; (*s*) and

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(*k*) *Shewn v. Vanderhorst*, 4 Cond. Cha. Rep. 461; *The Commonwealth v. Ragsdale*, 2 Hen. & Mun. 8.—(*l*) *Williams' Case*, post, 3 vol.—(*m*) *Casamajor v. Strode*, 1 Cond. Cha. Rep. 195; *Duvall v. Waters*, 1 Bland, 576.—(*n*) *Jones v. Pugh*, 8 Ves. 71.—(*o*) April, 1787, ch. 30, s. 5.—(*p*) *Iglehart v. Armiger*, 1 Bland, 527; *Andrews v. Scotton*, post.—(*q*) *Paxton v. Douglas*, 8 Ves. 520; *Gilpin v. Southampton*, 18 Ves. 469.—(*r*) *Douglas v. Clay*, 1 Dick. 393; *Hardcastle v. Chettle*, 4 Bro. C. C. 163; *Jackson v. Leaf*, 1 Jac. & Wal. 231; *Clarke v. Ormonde*, 4 Cond. Cha. Rep. 54.—(*s*) *Brooks v. Reynolds*, 1 Bro. C. C. 183; *Kenyon v. Worthington*, 2 Dick. 668; *Goate v. Fryer*, 2 Cox, 201; S. C. 3 Bro. C. C. 23; *Hardcastle v. Chettle*, 4 Bro. C. C. 163; *Paxton v. Douglas*, 8 Ves. 520; *Terrewest v. Featherby*, 2 Meriv. 480;