

assembly which provides, that this court shall have full power and authority, upon the application or petition of any person interested in the sale of property devised as this was, to appoint a trustee for the purpose of selling and conveying such property, and applying the money arising from the sale to the purposes intended. (b) But in appointing a trustee, under this law, as a mere successor to the testamentary trustee, it could not be presumed, that the court intended to confer upon him an authority more extensive than that to be found in the will, or instrument specifying the objects of the trust. Hence the stay of proceedings, or injunction upon the trustee, so far as regards the interests of those who claim under *Jane*, the facts having been admitted, must be made perpetual.

But the purpose to which the money arising from the sale was to be applied, was, among others, the payment of this debt said to be due to *Edward Thomas*; if it had been shewn, that there was, in fact, no debt due to him, the trustee *Francis Deakins* would not have been allowed to sell, upon the pretext of a necessity to do so, to satisfy that debt. And consequently, the court will not now appoint and authorize a trustee to take the place of *Francis*, and do that very act which it would have prohibited *Francis* from doing were he alive.

The order of the 2d of July, 1821, operates as, and must be considered in the nature of an injunction. And in looking into the answer of the executors of *Edward Thomas*, to see whether there is any thing there which will authorize or require the rescission or dissolution of the injunction order, I find that none of the material facts upon which it was originally based have been denied or removed; therefore,

It is *Ordered*, that the authority conferred on the trustee appointed by this court to make sale of the real estate of the late *William Deakins*, be construed to extend only so far as the same may be warranted by so much of the will of the late *William* as clothed his late brother *Francis Deakins* with authority to sell the same, and no further. And it is moreover *Ordered*, that no sale whatever be made, by any trustee appointed by this court, of any portion of the real estate of the late *William Deakins*, which by his will was authorized to be sold for the payment of his debts, for the purpose of paying the debt now alleged to be due to the