

the mere agent, having no right or power whatever, other than as a mere attorney. Hence it is clear upon principle, and also upon

*Ordered*, that in the mean time, if practicable, the auditor shall state the claim of the complainant, after giving notice to the attorney-general of the time and place of stating the same.

But the Chancellor wishes it to be understood, that no order he has passed on the subject is founded on a conviction or opinion that the trustees have violated their duty. The circumstances of the case, independent of the objections against them, are such as in his opinion absolutely demand a postponement.

After which this matter was again brought before the court.

25th May, 1804.—HANSON, *Chancellor*.—The Chancellor at length proceeds to a final decision on the sale of the tract of land called ‘Keep Treiste,’ or ‘Semple’s Manor.’ Several appointments of days have been made for this purpose; and he expected that every person who considered himself entitled to any part of the land, or the money to arise from the sale, would come forward in a regular and proper manner. He is disappointed; and he is to decide, as well as he can, on such information as he has received.

He must first remark, that on the day appointed for ratification *nisi*, &c. it did not appear to him that any person whatever, who had either a legal or an equitable interest, had made an objection to the sale reported by the trustees; but it appeared to him, that the only person to be benefited by the sale had, by his agent, given it his full approbation. He did not think it becoming to postpone a ratification on account of the objections made by a letter, from persons who did not state that they had either a legal or equitable interest in the land or money, and of whom many, by writing here filed, had either disavowed or withdrawn their objections.

Under the circumstances of the case, however, it might have been advisable for him to allow a further time for making or supporting objections. The decree for the sale, as he intimated at the foot of it, was perhaps premature, although made on the written agreement of the complainant and defendant. It might be premature, because it had not then, nor has it yet, been ascertained whether any thing, or how much, was due to the complainant.

With respect to sales under the authority of this court, the Chancellor thinks himself bound to act as if the property were his own, or held by him in trust. That is to say, he thinks that reasons which would induce him, as proprietor or trustee, to set aside a sale made by his agent, should determine him as Chancellor, to refuse his approbation to a sale made by a trustee. He has always availed himself of information, by whomsoever conveyed, in deciding on the merits of the sale. Having, after he passed the order in this case for ratification, received information respecting the interest in or title to the land or money aforesaid, he considered himself at least justifiable in rescinding the order and appointing a day, of which notice was to be given, for deciding on the case.

He regrets the inconvenience which may have resulted from that order; although he insisted that, as the case presented itself to him at the time of passing the order, he could not do otherwise. He knew of no parties or persons interested except James Lawson the complainant, or the defendants, the state, who could be contemplated, either in law or equity, as interested in the sale. The former as mortgagee, and the latter was standing in the place of Semple, the patentee and mortgagor of the land. The attorney-general, representing the state, had first agreed to the sale, and he did not object to it after it had been made, and after the usual notice.

But, after the information the Chancellor has since received, he cannot hesitate to