

the power to compel its own agent to bring in the proceeds of property sold under its authority, that application may be made of such proceeds to the purposes contemplated by the decree? This is not a question between the court and Key, the conventional trustee, but between the court and the trustee of its own appointment, and as to him, I apprehend, the power to pass the order asked for, is incontestible. *Glenn vs. Clapp*, 11 *Gill & Johns.*, 8; *Penn vs. Brewer*, 12 *ib.*, 113; *Mullikin vs. Mullikin*, 1 *Bland*, 538; *Iglehart vs. Armiger*, *ib.*, 527.

[The second objection was, that on the sale of the estate by a trustee of the court appointed for that purpose, the trustee appointed by the parties was *functus officio*, and could claim no interest in the fund raised by the sale; and that, at all events, the husband and wife as being beneficially interested, ought to have united in the motion. To this, it was answered by the court:]

By the terms of the deed, the trustee was, under the circumstances therein mentioned, authorized to sell the property, and the proceeds were to be invested upon the like trusts and uses, and subject to the same powers and purposes, as were declared with regard to the land, and I take it to be very clear, that the investment spoken of in the deed, was to be made in the name of the same trustee, and that now, the fund being under the control of this court, the investment must be made in his name, unless some satisfactory reason is assigned for the selection of another. John H. Key was an indispensable party to the original bill filed in this case—*Story's Eq. Plead.*, 187—and being thus a party to the cause, it not only was his privilege, but his duty, if he saw, or thought he saw, the trust fund in danger, to interpose for its protection. Having so interposed, it does not become the agent of this court, whose duty it was to sell the property, and deliver the proceeds of sale over to the court, to say, that he is spurred on to do that which, by the terms of the decree, he was required to do by a party who has no interest.

[The third objection was, that the trustee for the sale under