

If the complainant had permitted the power which he had given the defendant to stand unrevoked, and in the exercise of the authority thus confided to him, he had acted precipitately or unwisely, or at all events had attempted to make profit to himself in the discharge of his trust, there can be no doubt a court of equity would have afforded redress to the injured party. But when this authority was withdrawn, and the power entrusted to another party, it would certainly be a hard measure of justice to hold the person from whom the power was taken responsible for the conduct of him to whom it was given.

Winter & Latimer were the agents of the plaintiff in making this sale, and they, knowing who was the purchaser, received the purchase money from the auctioneer employed by them without objection or complaint. This appears from the evidence of the auctioneer, and the entries upon his books returned with the commission.

I cannot conceive that the defendant should or can, with any propriety, be regarded as the complainant's agent in selling this vessel, and, therefore, it appears to me there is no principle of law which precluded him from purchasing. I am also quite satisfied that if he had not attended the sale and bid, she would have sold for less than he gave for her, thus inflicting an injury upon himself as well as upon the complainant. Surely there can be no rule of law which would require him to stand by and permit his own property to be sacrificed under such circumstances.

It is no answer to say, that he might have bid on account of himself and the complainant to prevent a sacrifice. He had no authority from the plaintiff to do so, and might at the election of the latter been held to his bid.

The counsel for the complainant has pressed with much force the circumstance that the vessel was in bad repute in the place of sale, and that the respondent is responsible to some extent for this. But I do not find in the evidence anything to lead to a suspicion that the defendant contributed to or even knew of the reports in circulation injurious to the character of the vessel, and, therefore, he cannot be affected by their existence. It is very certain that but for the defendant's going to the place