

1849.

Crooks
v.
Crooks.

Judgment.

respective hands ; but the order which I think is more correct in point of form, and which therefore I propose, is for a reference to the master to enquire into and report upon the expediency of confirming the sales, reserving the remainder of what may be necessary to be done for consequential directions after the master shall have made his report. The creditors who have claimed or shall claim their debts under the decree, and the other defendants, who are interested in the decision of the question, will have an opportunity of attending before the master. I do not think that any doubt can be entertained of the jurisdiction of the court in this matter. It is quite clear that both Mr. *Boulton* and Mr. *Turner* acted in their professional capacity in the matters complained of, if *that* be necessary, but I do not think it is, to sustain the present application ; if they had not been solicitors at all, but mere agents aiding in the disposition of property under the control of the court, and had received the moneys produced by such disposition, they would have been equally liable to be ordered, upon a summary application in the cause, to pay such moneys into court. With regard to the title of the petition, I have no reason to think it otherwise than correct, and I should regret much to see the petitioner, who has so much justice on his side, defeated on a point of form, when the objection has not been taken at bar ; and it is obvious that the parties principally concerned have not been taken by surprise, as the tenor of their affidavits shews that they anticipated a personal order against themselves respectively. I do not see why the solicitor and his agent should be selected as the only objects of this application. The other parties who have received part of these moneys should be ordered to pay them into court. The reference should, I think, embrace an enquiry whether *Ramsay Crooks* did not receive the £125 mentioned in the schedule to Mr. *Turner's* affidavit, about which some misunderstanding seems to exist. The sum paid to the heir-at-law is too small to deserve attention, and the £62 10s. paid *Street* it is not desired probably and not material to recal. With regard to the trust conveyance to Mr. *McLean*, about which I have as yet made no observation, it is idle to repeat the observations

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