

several persons not mentioned in the original list of creditors. The defendant had paid several of those named in the first list, and in doing so had expended a sum greater than he had collected, and had become answerable for more than the residue of the estate would realize. The defendant refused to recognize the claims of the additional parties mentioned in the second list, and thereupon the plaintiffs filed a bill praying for an account of the defendant's dealings with the estate, and for an execution of the trusts of the deed: alleging that they had not any estate other than that assigned to the defendant, and that they were insolvent and personally unable to pay anything. The Court, in view of the fact that no fraud or improper conduct was alleged, and that even if the whole estate were realized, the defendant would still be a loser in the transaction, and that all the defendant had done, up to a date shortly before the filing of the bill, had been approved of by the plaintiffs; that he had received but a small sum since, and not enough to repay himself,—refused the relief prayed, and dismissed the bill with costs. *Id.*

3. In such a case the defendant sought to shew that the creditors mentioned in the original schedule were the only ones he had agreed to pay, and that such was the agreement between himself and the plaintiffs on his acceptance of the trust: *Held*, that he was not at liberty to shew this, not having asked for a reformation of the deed of trust; and that even if he had done so, the absence of the parties sought to be excluded from the benefits of the trusts was an insuperable barrier to the defendant's being permitted to do so. *Id.*

4. If under a will a trustee has a discretion to sell or not to sell real estate, the Court will not interfere by its advice or direction, but will leave the trustee to the exercise of his discretion,

In re Trusts of Will of Anne Parker, 389.

See also "Fraudulent Deed."

"Mortmain," 2.

"Pleading," 5.

"Will," &c., 6.

ULTRA VIRES.

The respective Legislatures of the State of New York and Canada incorporated certain parties for the purpose of constructing a suspension bridge across the Niagara River, for railroad and other purposes, with power to take lands, charge tolls, &c., and the two companies joined together in conveying to one railway company the exclusive use of the railway