

Counsel have referred me to a large number of cases bearing on this subject, and I have examined them all.

*Campbell v. Walker*, 5 Ves. 678, was not the case of a sale under a decree, but one by trustees under a power to sell contained in a will. One of the trustees having become the purchaser an inquiry as to the value, etc., was directed, the general principle being that a trustee is not absolutely incapacitated from purchasing the trust estate, but that if he does so, and the sale is impeached, the *onus* is on him to show that everything was regular, that he acted *bona fide*, took no improper advantage, and gave sufficient value. In *Wilson v. Greenwood*, 10 Sim. 101, note, the assignees of a bankrupt partner filed a bill against the solvent partner. At a sale of the partnership effects under an order he became the purchaser, and a motion to set aside the sale, on the ground that the partner was not at liberty to bid, was refused by Lord Eldon. *Elworthy v. Billing*, 10 Sim. 98, was also a motion to set aside a sale to a defendant, on the ground that he had not obtained leave to bid, and it was refused by V. C. Shadwell, who said that, as far as his experience went, there was no instance of such an order being made where the purchaser was, merely, a party in the cause, and not as such, the party to conduct the sale.

In *Dixon v. Pyner*, 7 Hare, 331, the conduct of the sale was given to the trustees by the master, on the ground that they were in a situation to conduct it more beneficially for the parties interested, and V. C. Wigram approved of what the master had done. See also *Knott v. Cottee*, 27 Beav. 33, in which the Master of the Rolls held that, although according to the ordinary practice of the court the plaintiff has the conduct of the sale, yet the court will take it from him and give it to another when it is for the benefit of the parties interested that such a course should be adopted.

The principle which governed the practice of the court was, that the person having the conduct of the sale stood, as to that, in a fiduciary relation to all parties interested in the estate, and having the preparation of the advertisement and particulars, and largely the fixing the time and place for the sale, he was not allowed to bid, which would place him in a position in which his duty and interest might conflict. As a general rule, trustees were not given leave to bid unless all the *cestui que trusts* being