

nexion with the whole answer, I deem it substantially sufficient; because if any of the allegations of the answer are false, the defendant will be as clearly liable to a prosecution for perjury as if the affidavit had been couched in the most positive terms. (d)

Whereupon it is ordered, that the injunction heretofore granted in this case, be and the same is hereby dissolved.

GIBSON'S CASE.

The Court of Chancery has the power in all cases, where it may be necessary, to appoint and employ a person as its trustee or agent to make sale of property for the purpose of executing a decree or order. It may appoint a woman or any competent person on the recommendation of the parties interested; or if they are silent, the plaintiff's solicitor is usually appointed. But the court will not appoint any one of its own officers, or any other officer to be trustee, the discharge of whose official duties may be incompatible with a proper attention to his duties as trustee; nor will the court employ, as its trustee, an infant, *feme covert*, or non resident. For negligence or improper conduct a trustee may be removed. In general, the trustee is to be regulated by the directions of the order or decree; but in making a sale, he may deviate from the mode prescribed by the decree, after the property has been put into the market, by advertising it for sale as directed. Commissions, or poundage fees to trustees, are allowed by law and regulated by rule of court. The commission is given as a compensation for the performance of all the duties specified in the decree, and the subsequent orders in relation to the sale, and its proceeds. The trustee may employ an auctioneer. The allowance of commissions to a trustee may be refused, diminished, or enlarged, according to the nature and circumstances of the case.

This matter arose on a bill filed, on the 7th of November, 1821, by the Farmers Bank of Maryland, against *John J. Gibson* and others, the representatives and trustees of the late *John Gibson*, for the sale of a real estate, which he had mortgaged to the bank to secure the payment of \$5325 20, with interest; upon which a decree was passed, on the 12th of February, 1822, appointing *Addison Ridout* to make the sale; who reported, that he had made a sale of it, for one-third cash, and the residue in three annual payments, which sale was, on the 3d of November, 1825, finally ratified, allowing the trustee for commission and all expenses, \$309 50. The auditor thereupon stated an account, distributing the proceeds of sale, in which the amount allowed to the trustee was appropriated to him, which account as reported by the auditor was ratified on the fifth day of the same month. Some time after