

parcel of land was made by the defendant John N. Watkins, as trustee in a suit in which this defendant William Ennis was the defendant, and had been finally ratified; and therefore this land was liable in this case to the extent of the late Thomas Tongue's interest as assignee of a part of the mortgage debt, after satisfying all the costs and prior claims in that suit. Whereupon the bill prayed that the real estate might be sold, &c.

On the 6th of September, 1826, the defendant Hall put in his answer, in which he admitted, that the plaintiffs were creditors of **343** \* his intestate as stated; that the plaintiff Owens was liable as endorser for \$1,500; and that the plaintiff Sellman was liable as endorser for \$1,000; but that he knew nothing of their being in any other way liable as endorsers; that the plaintiff Sellman was responsible for the sum of \$3,806, as surety for his intestate on a testamentary bond; and that the personal estate of his intestate was insufficient for the payment of his debts.

The defendants Watkins and Ennis, on the 9th of October, 1826, filed their separate answers, in which they admitted the truth of what was set forth in the bill in relation to the sale made under the decree of this Court, by Watkins as trustee; they declared that they had no knowledge of any other matter stated in the bill.

The infant defendants Elizabeth, Sarah and Thomas, put in their answer by their guardian *ad litem*, on the 18th of October, 1826, in which they admitted the allegations of the bill; and on the 6th of November following, the other infant defendant Benjamin, answered in like manner and to the same effect.

On the 18th of October, 1826, Ann the widow of Thomas Tongue, filed her petition, in which she stated that in consequence of the insolvent condition in which her husband died, she, with her infant children, had been left in a very destitute situation; that a very short time before the death of her husband, she had become entitled, by the death of her father, to negroes and other personal property, amounting in value to between three and four thousand dollars; all of which had been since applied in satisfaction of her husband's debts; that Robert Garner had agreed to serve as trustee in this case for the sale of her husband's real estate, and to give her the commission which might be allowed to him. Upon which she prayed, that he might be appointed trustee, &c. With this petition was filed the recommendation of Garner as trustee by many of the creditors. And there were also filed recommendations from many other creditors, that the defendant Thomas I. Hall should be appointed trustee.

BLAND, C., 7th November, 1826.—Decreed, that the real estate of the late Thomas Tongue be sold for the payment of his debts; that Robert Garner be appointed trustee to make the sale, &c. that one-third of the purchase money be paid in cash, one-third