

Feinour, though applied to, to make the application they desired, of the trust estate in his hands, has refused to do so, without the order and sanction of the court. And that the trustee in the deed, Mr. Scott, and the complainants, are willing that the premises in said deed mentioned, shall be conveyed to said Thomas Feinour, upon the trusts mentioned in the will of Charles Feinour, the elder.

The answer of Thomas Feinour admits the execution of the will and deed spoken of in the bill, and that he holds the property bequeathed in trust as alleged, and also about four hundred and sixty-three dollars in money. That the property conveyed by Charles Feinour, jun., is subject to an annual ground rent of \$33 75, that it is likewise incumbered by a mortgage for five hundred dollars, and that there are arrears of ground rent due of about one hundred and fourteen dollars. The trustee further states that he considers the present investment in stocks, advantageous and secure, and beneficial alike, according to their respective interests, to Mrs. Murray and her children, and in view of the interests of all, the condition of the property, the incumbrances upon it, and the danger to which it would be exposed, if the rent and taxes should not be punctually paid, he does not think it would be advisable to dispose of the stocks, and invest the proceeds as purposed by the bill, and therefore he shall not do so without the order and direction of the court.

Some proof has been taken for the purpose of showing on the one side, the expediency and advantage of disposing of the stocks held in trust, and investing the proceeds as proposed by the bill, and on the other, to show that it would be injudicious so to do; but as for reasons entirely irrespective of this consideration, I am of opinion the proposed change cannot be made; I do not consider it necessary to examine the evidence to ascertain the preponderance of proof either way. The will of Charles Feinour, the elder, gives no power to the trustee to change the investment, and, therefore, it is supposed to be clear, that if, without an express authority from some competent tribunal, he was to dispose of the stock and invest the money in other se-