

Where a sum is directed to be invested, and the investment is given to one for life, with remainder over, the interest which accrued before the investment, was held to be a part of the sum directed to be invested. (g)

Where it becomes necessary to determine the day on which an event happened, and the proof only designates a space of time within which it happened, the middle of that space is assumed as the day on which it took place.

THIS bill was filed on the 15th of November, 1824, by Edmund H. Contee, and Eleanor his wife, and Josias Hawkins, and Caroline A. his wife, against Eleanor Dawson, Philip A. L. Contee, Elizabeth Clerklee, Margaret Clerklee, and Sarah E. Clerklee, for the purpose of recovering a legacy given by the late Ann Russell, of England, to the children of Margaret Russell Clerk, which the plaintiffs alleged had come to the hands of the defendant Eleanor Dawson as executrix of William Dawson, deceased, who was the surviving trustee.

The several defendants answered. And the executrix, Eleanor Dawson, in her answer filed on the 27th of September, 1825, **265** * admitted that the legacy had been given as stated; that it had been received and invested by the trustees; that her testator had been the surviving trustee; that he, as such, believing he had the proper authority to do so from the parties interested, had made sale of the English stock in which the legacy had been invested, and had the proceeds, amounting to \$8,273.33, remitted to him here; and that, on the 24th of March, 1819, he invested \$3,828.88, part thereof, in stock of The City Bank of Baltimore; and the further sum of \$4,444.44, other part thereof, he had loaned to James Clerklee, on a mortgage of real estate; and the residue, amounting to £212 0s. 0d. sterling, remained in the hands of Wentworth, Chaloner & Co., of London, bankers of her testator, who claimed a right to retain it in discharge of a debt due from him. "That she has not yet been able to settle up the estate of her testator, and that there are considerable debts now due to the same which are still unpaid, and that the assets now in her possession are insufficient to discharge the debts due by the testator." Various other matters were set forth and relied on in this answer, which it will be unnecessary to notice here, as all the material allegations of the parties, and the circumstances of the case are fully stated by the Chancellor in his opinion.

The plaintiffs by their petition alleged, that the testator of the defendant, Eleanor Dawson, had been a trustee for the benefit of them and others interested in the legacy; that as such he had received £2,406 14s. 2d. sterling, and withheld it from them, as did the said Eleanor since his decease; that the said Eleanor Dawson had, under oath, settled a final account in the Orphans' Court.

(g) See *Abercrombie v. Riddle*, 3 Md. Ch. 320.