

have been married; and consequently as to those two-sixth parts of this legacy it is now ascertained, they must certainly go to the two infants, on their becoming qualified to take; or equally among the four in whom the interest in the legacy has already vested. And therefore these children have now such a contingent interest in the preservation of those two shares as entitles them to ask the aid of this Court in having them placed in a state of security until the happening of those events which are to determine to whom they are to be paid.

As between these plaintiffs and the defendant Eleanor Dawson, and also between her and her co-defendants, the children of the \*late Margaret R. Clerklee, the whole case as to the right to the two-sixths of this legacy, as well as regards the great **293** peril in which they now stand, considering the misconduct of the late trustee William Dawson; and the sinking condition of his estate has been fully made out by the pleadings and proofs; and therefore, I conceive it to be my duty to have those two shares brought into Court and invested in some secure and productive form for the benefit of these children of Margaret R. Clerklee, who may eventually become entitled to them.

As to the nomination of a trustee to make such investment, and the kind of security in which it shall be made, I shall expect to have the suggestions of the parties when the auditor shall have made a report as directed.

The late trustee William Dawson, in his life-time, distinctly admitted, that the proceeds of the sale he had made of the stock in which this legacy had been invested, and some interest since the death of Robert Clerk, his co-trustee, as before mentioned, (the amount of which interest to be now ascertained by proofs to be laid before the auditor,) amounted to the sum of \$2,406 14s. 2d. sterling. And therefore, this defendant Eleanor Dawson, his executrix, must be charged with the principal of that amount for the benefit of these legatees. One-sixth part of that amount has vested in each one of the daughters of Margaret R. Clerklee who is now of full age or has been married. And consequently, from the time the share so vested and became payable, the trustee, being in default, must be charged with interest thenceforward on the sum awarded to the claimant. And the trustee must be charged with interest on the whole sum from the death of Margaret R. Clerklee until a share vests; when a due proportion of the whole is to be awarded to the claimant with interest; and the trustee charged with interest on the residue of the principal until the next share vests when a proportion of the whole is to be awarded to the claimant with interest from that date, and so on until the whole legacy is disposed of. But as it is admitted, that the share which vested in Ann Russell Contee has been satisfied, the trustee must be credited for that as of the day of the death of Margaret Russell Clerklee.