this court to compel him to take it. But if the debt secured by the first mortgage be due, then the desire of the court in all cases, to make a final settlement of the rights of all persons interested, strongly enforces the necessity of bringing him in.

Without meaning to pronounce a definitive opinion upon this question, I suggest it, merely for the consideration of the complainant's counsel, and will, for the present, let the case stand over, to enable him, if he chooses, to file an amended bill. If he elects not to do so, I will sign a decree for an account, and reserve the question of parties, for the final hearing.

The defence taken in the answer of Mrs. McMakin, that there was a parol agreement that the land should not be sold during her lifetime, cannot be sustained. There is, in the first place, no proof of any such agreement, and if there was, it would be inadmissible as varying, by parol, the terms of a written agreement.

WM. H. COLLINS and R. W. GILL for Complainants.
E. HAMMOND for Defendants.

[By an agreement of parties, filed on the 13th of September, 1851, the administratrix of Feelemyer, the prior mortgagee, was admitted as a party to the suit, and a decree passed for the sale of such parts of the mortgaged property as was not included in the prior mortgage.]

BARBARA ANN MURRAY ET AL.
vs.
THOMAS FEINOUR.
} MARCH TERM, 1851.

[POWERS OF TRUSTEES—CHANGING INVESTMENTS OF TRUST MONEY.]

WHERE a testator purchased certain stocks, and gave them by his will to a trustee, for the use and benefit of his daughter and her children, without delegating to any one a power to change the investment, it was HELD—

That if the trustee, without an express authority from some competent tribunal, should dispose of these stocks and invest the money in other securities, he