

TRUSTEES, THEIR DUTIES, &c.—*Continued.*

- that the loss was occasioned by the negligence of the first trustee, and his administrators will be charged with its amount. *Ib.*
4. 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 would upon a proper application be decreed to replace them, and if they be replaced at a less sum than that at which they were sold, he would be compelled to invest the surplus in the same stocks to the same uses. *Murray vs. Feinour*, 418.
  5. The loss occasioned by an improper investment, though it were made with the consent, or even at the urgent request of a party not *seri juris*, as an infant, or married woman, will be visited upon the trustee at the suit of such party. *Ib.*
  6. In England, if a trustee holding money in his hands, invest it in the English three per cents., he will always be protected, as the court will sanction, when done, that which, upon application, it would have ordered to be done. *Ib.*
  7. In this state, there is no favorite stock, as there is in England, for the investment of trust money, and there is always, therefore, some difficulty when the parties do not agree in making a proper selection; and, consequently, there should be here more reluctance than in England, in changing an investment made by the author of the trust. *Ib.*
  8. If trustees have no power to change the investment, unless the instrument creating the trust confers it upon them, the court should hesitate to give the power, unless impelled to do so by considerations of the most pressing character. *Ib.*
  9. In the selection of trustees, the court will always give due weight to the wishes of those who are chiefly interested in the result of the sales, and in creditors' bills, the recommendation of a majority in amount of creditors is seldom disregarded. *Thornburg vs. Macauley*, 425.
  10. In this case, after the decree for a sale, and appointing trustees for that purpose had passed, creditors to a large amount came in, and upon the ground of surprise, ask that the decree might be opened, and so far modified as that a trustee named by them, might be associated with the trustees already appointed. HELD—  
That in the absence of any charge affecting the fitness of the trustees already appointed to discharge faithfully their trust, it would be establishing an inconvenient and embarrassing precedent to grant the application. *Ib.*
  11. As a general rule, trustees have all equal power, interest and authority, and cannot sell separately as executors may; but must join in any sale, lease, or other disposition of the trust property, and also in receipts for money payable to them in respect to their office. *Latrobe vs. Tiernan*, 475.