

But where it appears that the duties of trustee are altogether, or in most respects incompatible with the duties of the office which the proposed person holds, such as that of the register of this court, a clerk, or a judge of a county court, &c., such person cannot be employed as a trustee by this court. (g) In general, where the sale or disposition of any property is to be confided to a trustee, he must be required to give security for the faithful performance of his trust; and, consequently, as no one can be so appointed who is incompetent to contract, an *infant* or a *feme covert* cannot be a trustee in any such case. It is necessary, in all cases, that the trustee of the court should be a *citizen, resident* within its jurisdiction; not only, that he may be the better able to discharge his duties; but, that he may be continually within its reach and control; therefore, no one who is not a resident, or who is engaged in any pursuit, or who holds any office which may require, or subject him to go, or be ordered out of the State during any long intervals of time,—such as masters of merchant vessels, or officers in the army or navy,—can be appointed trustees. And as a trustee can only be appointed during the pleasure of the court, if he remove out of the State, neglect his duty, or is guilty of any injurious or improper conduct, he may, on application of any one concerned, be displaced, and another trustee appointed in his stead. (h)

In making the selection of a person to be employed as a trustee, the court exercises a sound discretion upon a view of the whole case; and as the Chancellor may allow himself to be actuated by feelings of benevolence upon such occasions, where he can do so without injustice to any one, he has therefore, as before observed, appointed the widow as trustee, that she might obtain the commissions for the benefit of herself and child. The recommendations of the parties are always attended to, and allowed to have their due weight as to numbers, amount of interest, and reasons assigned; where the parties are silent, it has been usual to appoint the solicitor of the plaintiff as trustee; but a plurality of trustees is never appointed except on special application by petition, motion, or suggestion. (i)

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(g) Bac. Abr. tit. Offices & Officers, (K).—(h) *Ex parte* Ord, Jac. Rep. 94; Logan v. Fairlee, Jac. Rep. 193; Berry's case, MS. 14th May, 1803; Chew v. Birkhead, MS. 30th June, 1798; Kilty v. Quynn, MS. 5th January, 1813, and 1st August 1815.—(i) Edwards v. Buchanan, MS. 27th May, 1800; Kilty v. Quynn, MS. 5th February, 1805.