

and wife, by whom she has been taken care of and maintained ever since.

The bill does not introduce *Cromwell* and wife as the *next friends* of *Rebecca*, but merely in the character of co-plaintiffs; and then states, "that *Rebecca* being, by the providence of God, gifted from her birth with but a small share of reason and judgment, and incapable, of herself, without the help and kindness of her friends, to take care of herself, or to manage and dispose of property." But it is not alleged, nor does it appear, that she has, by any judicial proceedings, been found to be a person of unsound mind, or *non compos mentis*. Nor do the plaintiffs *Cromwell* and wife show, or claim any interest whatever in the matter in controversy.

All these facts are admitted by the defendant; and he also admits, that he has never, at any time, maintained, or paid any thing towards the maintenance of *Rebecca*. But he alleges, that he has always been ready and willing to maintain her, when called upon; and, that he would have done so, if he had been permitted. The acquittance from his mother, which he has exhibited, and seems to place some reliance upon, may be at once laid aside as having no material bearing upon this case.

The plaintiffs, by their bill, pray specially, that the defendant *William Owings* may be compelled to pay to *John Cromwell* and *Urath* his wife, for the use and benefit of the said *Rebecca Owings*, whatever may be now due, or may hereafter become due to her under her late father's will: and generally, that the plaintiffs may have such other relief as may be agreeable to equity and right.

Thus it appears, that justice is demanded in behalf of one of that unfortunate class of persons who are held to be most peculiarly under the guardianship of this court. The case is of a delicate and anomalous nature; yet it is one in which, it is quite evident, that relief, by some means or other, ought to be granted. There are, however, difficulties in the way, which must be overcome or removed.

The first of them which presents itself, is as to the parties. If all those who have an interest in the subject, and who ought to have been brought before the court, have not been made parties, it may be taken advantage of by demurrer, by plea, or at the hearing. On the other hand, if a person be made a defendant unnecessarily, the bill may be dismissed as to him, and proceed as to the others. (a)