

The parties agreed, that the case should be referred to the auditor to state an account of assets, &c. And of the sum due, if any, to the complainants on account of *Ann Jones*' annuity. And also submitted to the Chancellor, 'whether the loss of interest occasioned by the deposite of the moneys brought into court is to be borne by the complainants or the estate?' and 'whether the complainants and defendants, or any of them, are to be allowed costs against the estate?'

25th April, 1827.—BLAND, *Chancellor*.—I have examined the proceedings and reflected upon the questions submitted. The plaintiffs by their bill complained, that the defendants had suffered the legacy, the profits of which were given to the plaintiff *Ann*, to remain in their hands unproductive; whereby the interest, which might otherwise have been accumulated and paid to her, was lost. And prayed, that the trustees might be ordered to make an investment thereof. The defendant *Stockett* answered, and brought into court a great proportion of the legacy, which was ordered to be deposited as usual, as I have before remarked, for safety, and until the plaintiffs should suggest a mode of investment. Hence, it is evident, that the plaintiffs, in effect, called the money into court; and it was their fault, that it remained here so long unproductive. The trustees being blameless, are therefore not chargeable; and there is no ground upon which these plaintiffs can have the estate taxed, to the prejudice of others, for the purpose of re-imbursing them for a loss occasioned by their own mismanagement or negligence: for even if the trustees had been guilty of any misconduct, the estate could not be charged to make good the loss; (e) and upon the same general principles, neither these trustees nor the estate can be charged with costs. (f)

Whereupon it is *Ordered*, that the loss of interest occasioned by the deposite of any moneys in this court, pursuant to the order of the 31st of August, 1825, be borne by the complainants; that they pay all costs; and that this case be, and the same is hereby referred to the auditor, with directions to state an account or accounts, in pursuance of the foregoing agreement and of this order.

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After which the auditor made up a report, as of the 8th of November, 1827, which he filed on the 15th of the same month, in

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(e) Anonymous, 1 Salk. 153; *Carter v. Barnadiston*, 1 P. Will. 518.—(f) *Curteis v. Candler*, 6 Mad. 123.