

It has been long, and well settled, that in all cases where property has been vested in a trustee; or placed in his hands; or put under his control for the purpose of securing it for the benefit of any one; or to insure its proper application in any legal way as prescribed by the owner, that although such trustee may, in almost all cases, if he thinks proper, take upon himself the risk of properly executing the trust without assistance from any quarter; yet he is not absolutely bound to do so. He may in all cases where the nature of the trust is governed by principles of equity, as most commonly happens, ask the direction of a Court of Chancery; and act under the indemnity of its decree; not because such a court is, in itself, considered as a proper or suitable agent for the mere safe-keeping, or management of any property; but because where property has been put into a particular course, allowed and regulated only by principles of equity, it is fit and proper, that all who have a beneficial vested interest in it; as well as the agent to whose management it has been confided, should have an opportunity of coming before a tribunal whose peculiar province it is to apply such principles; and have such property so regulated; as well that those who may be then, or thereafter beneficially interested, may sustain no loss, as that the trustee may fall into no mistakes, nor be subjected to any unreasonable responsibility in cases, where the rules of equity, by which his administration must be governed, are complex and of difficult application. And therefore it is, that in all such cases, where a trustee comes before a court of equity, as a plaintiff, or is brought before it as a defendant, and declines to execute the trust without the direction and indemnity of the court, he is held to be so entirely justifiable in thus seeking its protection, that he is never charged with interest or costs; and that all such losses and expenses are directed to be borne by the particular trust fund in regard to which the direction has been required. (*l*)

Now in the case under consideration, the plaintiffs *Jones* and wife, had complained, that these trustees had suffered the trust fund to remain in their hands unproductive; and one of the trustees, for they cannot act separately, (*m*) came in at once, submitted to,

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(*l*) *Leech v. Leech*, 1 Ch. Ca. 249; *Brown v. Litton*, 1 P. Will. 140; *Trafford v. Boehm*, 3 Atk. 448; *Brooks v. Reynolds*, 1 Bro. C. C. 183; *Hancom v. Allen*, 2 Dick. 498; *Brown v. Yeale*, 7 Ves. 50, note; *Curteis v. Candler*, 6 Mad. 123; *David v. Frowd*, 7 Cond. Cha. Rep. 8.—(*m*) *Nicolson v. Wordsworth*, 2 Swan. 370; 2 Foub. 181.