

and prayed the direction of the court as to the mode of executing the trust—whence it was clear, that no investment could be made until directed by the court; and, as in that interval the trustees could not be charged with interest, no profits, to which alone *Jones* and wife were entitled, could have been derived from the \$7,000. But *Jones* and wife had themselves complained, that to suffer the legacy to remain in the hands of the trustees would put at great hazard the principal sum; and consequently, the interest thereon; indeed, it was obvious, that the entire value of their interest in the sum of \$7,000, depended altogether upon its being immediately placed in safety; and, as soon thereafter as it might be judiciously done, profitably invested. It therefore clearly followed, that although *Jones* and wife had not, in so many words, prayed, that the legacy of \$7,000 should be brought into court; that nevertheless, it was the necessary result of the actual complaint and prayer of their bill, and most emphatically so after they had been informed by the answer of *Stockett*, that the trustees declined to execute their trust without the direction and indemnity of the court; for then the bringing of the money into court was the most direct and suitable answer which could have been given to their complaint; and the best step which could have been taken in their behalf, as preparatory to that investment for which they especially prayed. But it would seem from their answer, and the petition of the trustees, filed on the 20th of October, 1828, that they had had other objects in view; and that they had been thwarted in their expectations by the order of the 21st of September, 1825.

The trustee *Stockett*, in his report in answer to the order of the 20th of January, 1826, seems to have misunderstood the Chancellor; and to have formed an inadequate notion of his own situation. If by an *interest* in the matter, he means a pecuniary benefit, it is certain, that he not only has no interest adverse to that of *Jones* and wife, but none whatever in opposition to any one else. But, as trustee he holds an important office; and he has duties to perform which have a direct bearing as well upon the interests of *Jones* and wife as upon all others who may take in remainder after them. And consequently, when he comes, or is brought here, in respect of that office and those duties, although he may with propriety claim the direction and indemnity of the court, he cannot be justified in simply casting the whole matter before it, and leaving it to act blindly without information, or upon mere presumptions. He is one of the fiduciaries of this property, chosen by