

life interest, in its profits, shall have fallen in. But as the plaintiffs *Jones* and wife, have an interest in its being *most profitably* disposed of, compatibly with its ultimate safety, it was obviously proper that they should be consulted so far, and to that extent; and they were so heard accordingly. But the court considered itself bound to act as the *ex officio* guardian of the interests of those who are to take in remainder; and who may not be now in existence, or if they are, having no present vested right, could not be made parties to this suit. It is therefore perfectly clear, that *Jones* and wife are not *alone* interested in the investment of this sum of money.

The plaintiffs *Jones* and wife, have also affirmed, that they did not expressly ask or require the \$7,000 to be brought in; and that the doing so, was not only not prayed for by them, but was contrary to their wishes, and had occasioned to them a loss of five months' interest.

But, by their bill, filed about eighteen months after the death of the testator, they complain, that the executors had not paid them all to which they were entitled; that they had suffered the money to remain unproductive in their hands, and had failed to execute their trust—whereupon the bill prayed, that the trustees might account, and especially, that they should be required to put the \$7,000 out at interest, so as to have it made productive to the plaintiffs. *Jones* and wife, thus expressly made it a ground of complaint, that the money remained idle in the hands of the trustees; and also expressly prayed for the direction of the court to the trustees as to the investment. The defendant *Stockett*, at the very next term after that to which he had been summoned; and as soon as he could have been compelled, or was expected to appear and answer, put in his answer, submitted to account immediately, and to such directions as the court should give in relation to the investment; and in a few months thereafter, offered to bring into court a large amount applicable to the trusts of the will; and asked for the direction of the court as to the disposition of it; which money was thereupon ordered to be brought in and deposited, subject to further order. The ground of complaint against the trustee *Stockett*, was therefore, without delay, removed both in word and deed; and a part, at least, of the subject was placed in a condition to have the prayer of the plaintiffs *Jones* and wife, granted at any moment when they should move, so as to enable the court to act with a due regard to the interests of all concerned.