

of the complainant George, died, and he thereupon in his own right, and as the next friend of his infant children, filed a bill of revivor and supplement, in which it is again charged that it would be for the interest and advantage of all parties interested that the land should be sold, and which allegation is again denied by the answer of Godwin and wife. The nature of the proof taken, appears from the opinion of the Chancellor.]

THE CHANCELLOR :

This bill, as has been correctly observed, is founded upon the provisions of the 12th section of the Act of 1785, ch. 72, which authorizes the Chancellor to direct lands, tenements, &c., to be sold, in which infants, &c., have a joint interest, or interest in common with any other person or persons, when it shall appear, upon hearing and examination of all the circumstances, that it will be for the interest and advantage both of the infant, &c., and of the other person or persons concerned, that a sale should be made. It is not sufficient that one or any number of the parties less than the whole, would be benefited by the sale, but it must appear to the Chancellor that all will be benefited by selling the property. And, as will be seen upon reference to the case of *Tomlinson vs. McKaig*, 5 *Gill*, 256, 274, the jurisdiction of the Court cannot be sustained, unless the bill alleges that it will be for the interest and advantage of all parties interested, that the land should be sold.

The bill in this case contains the necessary allegations, and although by the supplemental bill, the infants appear as parties complainant, and by their next friend concur with the adult party in making the amendment, that does not at all dispense with the necessity of proof in support of it, as has been several times decided by this Court. If the infants had been made defendants, and by their answer by their guardian had admitted the facts alleged in the bill, still there would be no decree against them, but upon proof of all the material allegations. *Kent and Boyle vs. Taneyhill*, 6 *G. & J.*, 1.