

ical weight in favor of Mr. McKim is sustained by at least an equal amount of interest.

It has been declared by this court upon several occasions that the recommendations of parties with reference to numbers, amount of interest, and reasons assigned, are always attended to upon the question of selecting a trustee, and the propriety of the observation is manifest, as in the absence of controlling circumstances to the contrary, there seems to be a peculiar fitness in consulting those whose interests are at stake. The court, it is true, is not bound by such recommendation, as it is clear beyond question, and it is conceded all round that in the selection of a person as trustee, the court exercises a sound discretion upon a survey of all the circumstances of the case.

There does not appear in this case any fact which should outweigh the influence which numbers and amount of interest ought to have in guiding the discretion of the court, unless it is found in the circumstance that as the recommendation of the majority was gratified in the appointment of John S. McKim, who has declined, the wishes of the minority are now entitled to be respected. It is supposed the late Chancellor was governed by some such consideration as this in the case of *Williamson vs. Swann*, but as it does not appear upon the face of the orders that he acted upon this reason, and as I do not very clearly see why this alternation should be observed, I rather incline to think the Chancellor proceeded upon some other ground. At all events, if, as is not denied, the court should attend and give weight to the recommendation of the majority of those having an interest in the trust fund, the reason is very far from being obvious why this recommendation should be disregarded in the selection of a second, when the first person chosen refuses or declines to act, and I am, therefore, not prepared to adopt such a rule.

Considering that a majority of the persons concerned recommend Haslett McKim, and in view of the character of the trust, and all the surrounding circumstances of the case, I consider it proper to appoint him the trustee, and shall pass an order to that effect.