

In regard to the fee here proposed to be allowed to the solicitor employed by the trustee, it has been with propriety laid down, that where a trustee, in the fair execution of his trust, has expended money by reasonably and properly taking opinions, and procuring directions that are necessary for the due execution of his trust, he is entitled not only to his costs, but also to his charges and expenses, under the head of just allowances. *Webb v. Shaftesbury*, 7 *Ves.* 481; *Fearn v. Young*, 10 *Ves.* 184; 2 *Fonb.* 176; *Brockropp v. Barnes*, 5 *Mad.* 90. For these reasons this fee may well be allowed.

Whereupon it is ordered, that the said exceptions be ruled good, and that the auditor correct his statements accordingly.

On the 10th of March, 1828, the auditor reported, that he had corrected the accounts as ordered; that there was due from Wayman the sum of \$183.42; from Stockett \$9.79; and that Jones and wife had been overpaid their annuity to the amount of \$289.99.

After which, the trustees having brought in and deposited a further sum of money, it was, on the petition of the plaintiffs, ordered to be invested in stock of the Farmers and Mechanics Bank of Frederick County.

On the 15th of November, 1827, Richard G. Stockett and Henry Wayman filed their bill here against Samuel Jones of Joshua, and Ann his wife, and Larkin Shipley, an infant. This bill stated that the late Larkin Shipley, who was, at the time of his death, possessed of and entitled to considerable real and personal estate, by his will gave a legacy to this defendant Ann, and the residue of his estate to this defendant Larkin in the manner therein mentioned, and

**418** \*invoked into this case the beforementioned proceedings, under the bill filed by these defendants Jones and wife against these plaintiffs; which case had been referred to the auditor, who had stated several accounts. But that this defendant Larkin, not being a party to those proceedings, or bound thereby, might, at any future period, impeach the correctness of the accounts of these plaintiffs, which had been approved in that case; that, owing to peculiar circumstances, to the localities of the property of the testator, and to the residence of these plaintiffs, and the *cestuis que trust*, a division of the trust property, and of the duties of these plaintiffs, was desirable, so that the plaintiff Stockett might have the management of the fund invested for the benefit of this defendant Ann, and that the residue of the estate might be confided to the plaintiff Wayman. Whereupon, the bill prayed for such decree as the Court might deem just.

On the 24th of December, 1827, Jones and wife filed their answer to this bill, in which they admit the will and proceedings in the suit instituted by them, and say, that, in consequence thereof, a portion of the legacy of \$7,000, to wit: the sum of \$3,552, or there-