the account was to be included, not only the concerns of the partnership in which they were concerned, but also the accounts of the administration of the estate of Richard Henderson, and the proportionable share of that estate to which John Henderson was entitled. * But there has been no final settlement of accounts **240**
between James M. Lingan and John Henderson. The partnership between them was dissolved in 1807, and the books of the concern delivered to James M. Lingan, as surviving partner, after the death of John Henderson in 1809, for the purpose of collecting the debts of the partnership; that John Henderson received none of the profits of the partnership; and she thinks it possibly may be shewn, that James M. Lingan was considerably in debt to the concern. The defendant Lydia further answering, says, that she does not know what price was agreed on between Lingan and Henderson for the land mentioned in the deed; but admits, that John Henderson had the possession and enjoyed the profits of it to the time of his death, which happened on the 27th of January, 1809; that she does not know of Henderson's having acknowledged, after the execution of the deed, that he had not paid for the land; that he was unable to pay for it, and that he insisted that Lingan was, by the contract, to take it back in case Henderson was unable to pay for it. But she admits that John Henderson and James M. Lingan died as stated in the bill, and that the plaintiff's claim is disputed at law by her as administratrix. The defendant David English saith, that he hath no knowledge of the matters charged in the bill, and therefore can neither admit nor deny them.

It appears by the affidavit subjoined to this answer, that it was sworn to before a justice of the peace of Washington County, in the District of Columbia, by both of these defendants, David English and Lydia his wife; and added thereto is a certificate by the clerk of that county, that the person before whom the oath was taken, was at the time duly commissioned and qualified as a justice of the peace. After the coming in of this answer, the plaintiffs filed a certificate of the clerk of the editors of the National Intelligencer, annexed to a printed copy of the order of publication, stating that it had been published as required. The plaintiffs then by petition prayed, that a commission might be issued to the persons therein named by them to take testimony, &c.

JOHNSON, C., 29th July, 1822.—Ordered, that a commission issue to the persons named as commissioners, unless the defendants shall name and strike commissioners, on or before the 20th day of August next.

No one having appeared to name and strike on behalf of the defendants, a commission was issued as directed, on the 8th of