believes that was the suit which induced the petitioners to require the investment.

"The trustee further states, that not having succeeded in his endeavors to invest the said funds, and the petitioners and their counsel being acquainted with the progress of the said suit of *Hanson* v. *Murray*, and often attending the Chancery Court, and not having called upon him to report, he had every reason to believe, that they were satisfied, that the funds should remain as they were. The trustee further states, that even if he were chargeable with interest in this case it would be going a great length to charge him from the moment the order to invest was made, which the auditor, at the instance of the petitioner's solicitor, has done."

On the 18th of August, 1825, Sarah H. Smith, with James Smith and Edward T. Bond, filed an amended petition, giving a more particular account of the nature of the claim and judgment mentioned in her petition of the 9th of August, 1819, and stating that she had assigned it to the two other petitioners; that the personal estate of the late Charles Wallace was totally insufficient to pay his debts; and praying that their claim might be paid out of the proceeds of the sale of his real estate now in this Court; and that notice might be given to the heirs, devisees, and legatees. To this petition Charles W. Hanson, one of the devisees, filed his answer, on the 17th of November, 1825, in which he says, that he does not know of or admit the said judgment, or the correctness *thereof, or that the same is justly chargeable on the funds deposited in this Court. And he also pleads, and relies upon, the Act of Limitations of 1715, ch. 23, s. 7, as a bar to the judgment. **56**

BLAND, C., 29th August, 1825.—The trustee having made a further report on the 14th of July last, shewing cause in obedience to the order of the 17th of March last, the parties were heard by their counsel, and the proceedings and proofs in relation thereto were read and considered.

It is conceived there can be no doubt, that this Court has the power to make such an order as that of the 31st December, 1821; and, under the then circumstances of this case, its propriety was evident. *Spring* v. *The South Caro. In. Comp.* 6 *Wheat.* 519; 1 *Harr. Pra. Chan.* 256; 2 *Fowl. Exch. Pra.* 287. A person who is appointed a trustee by this Court is not bound to accept the trust; or to continue in the office longer than he chooses; but, so long as he does consent to act in that capacity, he is bound to obey the orders of the Court. In this case the trustee might have refused to take upon himself the risk, and trouble of executing the order of the 31st December, 1821; but, if he thought proper to refuse, he was bound immediately to apprise the Court of his determination, and to bring in those proceeds, then in his hands, which the