

It appears, from a certificate of the register of wills of Anne Arundel County, that John Shipley had, on the 27th of July, 1828, given bond as guardian of Larkin Shipley.

On the 22d of September, 1828, the defendants Jones and wife put in their answer to this bill, and admitted the beforementioned facts and proceedings, as therein stated, and prayed that the mortgage of the estate of the defendant Stockett might not be considered as a part of the legacy given to them, but that the trustees might be ordered to collect the estate of the testator, and make an investment of the balance of their legacy, giving to them an opportunity of making a suggestion of what might appear to them to be fit and proper objects of investment, they being alone interested in the said investment. And they say that they are willing that the balance of their legacy may be brought in and invested as before directed, although the bringing in of the sum of \$3,552, as before stated, into this Court, was not only not prayed for by these defendants, but was contrary to their wishes, and occasioned to them a loss of five months interest, as aforesaid; and that the course taken heretofore by this Court, without the desire, and to the disadvantage of these defendants; is now prayed for and requested; because it will be more satisfactory and safe, and there will be no probability that the same may not be promptly invested.

420 *On the 20th of October, 1828, these defendants Stockett and Wayman, by their petition, prayed that this defendant Samuel Jones might be appointed trustee in their place, of the legacy of \$7,000, and that the amount might be paid into his hands as such, to be held and disposed of by him, under the direction of this Court.

On the 27th of October, 1829, the defendant Wayman filed his answer, in which he admitted as before the facts, as stated in the previous proceedings, and prayed that those proceedings might be taken as a part of this, his answer. He then set forth the reasons why some of the debts due to his testator had not been sooner collected, and why some of them still remained to be got in; and he then further stated, that the plaintiff Larkin was then an infant, about twelve years of age, and lived with his father, who could not require that any portion of the profits of the estate should be applied to the support of the plaintiff; that, as was intended by the testator, he had placed the plaintiff at a school, when he was old enough, and continued him there until his father took him away; and he was not then at any school; that the father was not entitled to have any part of the rents and profits of the testator's estate paid to him for the support of his own child, or while he refused to permit the child to receive the education intended to be given to him by the testator. And, therefore, this defendant had for some time declined to pay any to the father, conceiving that, if