under this same will, claiming a legacy of a similar kind; and which therefore, must, in so far as the two legacies are substantially alike, be governed by the same directions that have been given in relation to the legacy bequeathed to the plaintiff Ann. But in regard to the legacy to the plaintiff Larkin other questions have arisen, from his infancy and peculiar situation, which call for other and further directions to the trustees as to the disposition, in some respects, of the legatee himself as well as of his legacy.

The directions of the testator are clear and explicit, "that my said trustees shall have and retain the sole possession and custody of the said estate so given as aforesaid to my said nephew Larkin for the purpose of educating him, and are to rent out the real estate, and put out the money on interest to the best advantage; and pay away the yearly proceeds after his arrival at age to him; but to retain a control over the principal till the objects of this bequest and devise are fully complied with." Hence it is manifest, that to these trustees alone have been confided the means of accomplishing the laudable intentions of this testator.

Where a large legacy is given to an infant, and it vests in him immediately, or ultimately at all events, it has been usual to allow an adequate maintenance out of the property so given, and to order it to be paid to the father for that purpose, if he should not be of sufficient ability to maintain his child in a manner suitable to the fortune so given. *Buckworth* v. *Buckworth*, 1 *Cox*, 80. But in this case the bequest is special and peculiar. The probable or possible misapplication by the father of the proceeds of the property bequeathed to this infant, *seems to have been distinctly within the contemplation of the testator. For the **428** trustees are expressly directed to retain the sole possession of the property for the purpose of educating the infant; and there is no provision for his maintenance, except, as an indispensable means of educating him; that is, while he may be at school, and not residing with his father. The distinctly expressed intentions of the testator are that the infant be educated; that so much of the yearly proceeds of the property as may be necessary are to be applied for that purpose; and that all over and above what may be necessary to attain that object shall be put out on interest to the best advantage, and paid to him after his arrival at age; or, in other words, that if, from any cause, he cannot be educated as desired, he shall have the money which might have been spent in that way.

It is clear, that upon mere common law principles, and by means of a writ of *habeas corpus* alone, the Chancellor, the Judges, or the Courts of common law can do little more than relieve any one from illegal restraint. *Lyons* v. *Blenkin*, 4 *Cond. Cha. Rep.* 120; *Ex parte Skinner*, 17 *Com. Law Rep.* 122. The Chancellor,