

[By a decree of this court passed on the 2nd of August, 1837, John S. Selby was appointed trustee to sell certain parcels of real estate, which had been devised by Edward Williams, deceased, to his widow, Editha Williams, for life, with remainder in fee to four of his grand-children. On the 5th of the same month he gave bond as such trustee, with Nicholas I. Watkins and Basil Shephard as his sureties, and on the 7th of September following, he sold the said property on the terms specified by the decree, viz. The interest on the purchase money to be paid annually, and the principal in five years from the day of sale. The tenant for life was duly paid the said interest, and from the 27th of May, 1842, to the 7th of September, the trustee received on account of the principal the sum of \$2011, for which he did not account, and since that time he became utterly insolvent.

On the 8th of July, 1844, a petition was filed by the grand-children of the testator to obtain from said Selby an account of his proceedings as trustee, in reply to which, he stated, that he had received the sum above mentioned, with which, after making certain deductions, he had, with the consent of the parties interested, charged himself as guardian to two of said grand-children. As guardian to these children he had, on the 12th of June, 1837, given bond with Thomas Robinson and Harriet Selby for his sureties. And on the 10th of April, 1847, another petition was filed in this cause by Charles R. Stewart, administrator of Thomas Robinson, deceased, Harriet Selby, Nicholas I. Watkins and Basil Shephard, expressing a doubt as to which set of sureties, Selby should be held liable for his default, and praying the court, upon a view of all the circumstances of the case, to determine their respective rights and obligations. A commission to take testimony in reference to the matter of this petition was issued and returned; and there was also returned with the same a mortgage dated the 21st of October, 1843, executed by said Selby to Nicholas I. Watkins, one of the sureties on his bond as trustee, and James H. Watkins, who with the said Nicholas I. and the said Basil Shephard, had incurred certain responsibilities on his account;