

this as the data, and making an allowance to her, according to the chancery rule, in lieu of the charge, and she would receive the sum of five hundred dollars, and this the Auditor has allowed her in account B, making a similar allowance to her sister Susan, though, as to the latter, there is no proof either touching her age or the condition of her health.

The counsel, I think, stated that nothing was claimed for Susan, though I am not positive as to this, nor do I remember why it was that the claim was not made.

The defendant, Mary O. Hutchins, for herself and her children, excepts to this account, *first*, that the said parties were only entitled to board and clothing out of the profits of the estate in common with the devisee, Jarrett, and his family, and, therefore, that they can only claim a reasonable proportion of the income of said estate or interest on the proceeds of sale; and, *secondly*, that the subsistence of said parties ought to be charged on the other real estate devised to Jarrett by his father, or, at any rate, that an allowance should be made in gross out of the proceeds of sale, and that the allowance so made by the Auditor in account B, is excessive, &c.

Upon examining the will, I am of opinion that the daughters of the testator, Elizabeth and Susan, are entitled to board and clothing, and that a reasonable annual sum must be allowed them for this purpose, or a gross amount in commutation thereof out of the proceeds of the sale. I do not think this annual allowance is to be made out of the profits of the estate in common with the devisee and his family, or that they (the daughters) are to be limited to a proportion of the interest on the proceeds of the sale. The direction in the will is that they shall have "good and sufficient boarding and comfortable clothing, so long as they may remain single."

It does not appear what family, if any, the devisee Jarrett had at the date of the will, in 1816, or when the testator died, on or about the same period. Nor does it appear what was the value of the other property devised to him. Moreover, this charge was only to continue so long as the daughters of the testator should remain single, and perhaps this may have