

the will of the late *Charles Rogers*, that they are not to receive, or entitled to any, till his debts were paid, which was completed on the 9th April, 1808.'

25th March, 1815.—KILTY, Chancellor.—On the application of *John Diffenderffer*, who married one of the heirs, and on the resignation of *Samuel Vincent* the trustee, the chancellor has examined the former proceedings. Before any further order can be made it will be necessary for him to be furnished with a transcript of the proceedings in the suit by *Mrs. Bailey* and *Mrs. Diffenderffer* which were carried to the Court of Appeals as mentioned in the report of *Samuel Vincent*.

This case having been again brought before the court, and some further explanations given as to the particulars mentioned in the last report of the trustee *Vincent*.

8th July, 1817.—KILTY, Chancellor.—It being represented, that there is an error in the report, as to the suits in the Court of Appeals mentioned in the order of March 25th, 1815, the auditor may proceed to examine the reports and vouchers, without waiting for the transcript, and report thereon, giving notice to the former and present trustee.

In obedience to this order the auditor, on the 23d of December, 1818, stated and reported several accounts as required, for performing which service, his legal fees amounted to \$84. After which, the auditor, by his petition, stated, that the former trustee *Vincent*, and *John Diffenderffer*, who had been recognized by the court as trustee in the room of *Vincent*, although no order for his appointment appeared among the papers, had both of them neglected and refused to pay his fees, although *Diffenderffer* had always had in his hands funds of the estate to a large amount. Whereupon the auditor prayed, that *Diffenderffer* might be ordered to pay, &c.

18th October, 1819.—KILTY, Chancellor.—Ordered, that *John Diffenderffer* pay to the Auditor the sum of \$84, on or before the 10th day of November next, or shew cause to the contrary; provided, that a copy of the petition and of this order be served on him before the 28th instant.

These are all the proceedings which appear to have been had in the case of *Rogers v. Merryman*, when *Winder* and wife instituted this suit against *John Diffenderffer* and others.

These plaintiffs, *Winder* and wife, by their bill, stated that *Charles Rogers*, after having made his will, as before set forth, died,