

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 the 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 thing to the father, conceiving that, if he were to do so, it would not be applied according to the intention of the testator.

On the 28th of October, 1828, the defendant *Stockett* put in his answer, in which he prays that the former proceedings may be taken as a part of this, his answer, and admitting the facts which he had therein admitted, says that he is indebted by mortgage, as stated in the bill, and that he is ready and willing to account, &c.

To these answers the plaintiffs put in a general replication, and a commission was issued, under which testimony was taken and returned, from which it appeared that the pecuniary circumstances of *John Shipley*, the father of the plaintiff *Larkin Shipley*, were such that he was unable to give to his son even a common country school education, without labouring under some inconvenience with regard to the rest of his family. After the return of this commission, these four cases were together brought before the court.

5th November, 1829.—BLAND, *Chancellor*.—These cases standing ready for hearing, and having been argued by the counsel for the complainant *Larkin Shipley* of *John*, and the defendants