

After which, *Kent Mitchell*, who, although not so expressly stated, appears to have been one of the heirs of *William Mitchell*, deceased, by his petition, not on oath, stated, that he was very much interested in the sum of money which was the subject of controversy; a large proportion of which was to be paid to him, when collected, by the said *Wallace*, who was a mere trustee; and therefore, prayed to be allowed to come in, answer, &c. Upon which, it was, on the 20th of August, 1824, by *Archer, C. J. Ordered*, that the petitioner be permitted to appear, answer, and defend, as prayed. Under this leave, on the 25th of October, 1824, *Kent Mitchell* filed his answer, in which he set forth and relied upon various facts and circumstances, which had been before in substance stated and relied on by the defendant *Wallace*. After which, this defendant *Kent Mitchell*, without oath, or stating any reasons, merely prayed for leave to amend his answer. Upon which it was, on the 6th of November, 1824, by *Archer, C. J. Ordered*, that leave be given to amend the answer, as prayed. Under which leave, this defendant, on the 5th of March, 1825, put in an amended answer, setting forth some few additional facts, but none having any material bearing upon the questions afterwards submitted for determination.

The *second* of the cases of *Brown* against *Wallace*, was also commenced in Harford County Court, by a bill filed on the 5th of March, 1825, by *Freeborn Brown* and *William Brown*, against *James Wallace*. This bill stated the same facts and circumstances as in the first bill, and alleged, that the trustee *Wallace*, was wholly unable to make a good and valid title to *Freeborn Brown*, for the land so purchased by him. Whereupon it was prayed, that the said contract between the plaintiffs and the defendant, respecting the property in the proceedings mentioned, might be set aside, vacated, cancelled, &c. To this second bill, the defendant *Wallace*, put in an answer, substantially similar to that which he had made to the first bill.

After hearing the motion to dissolve the injunction, the matter was considered, and the motion was overruled. On the 13th of March, 1826, *Freeborn Brown's* death was suggested; and *Mary B. Brown*, his executrix and devisee, was admitted as a plaintiff in his stead. These cases were then removed to this court, under the act of 1824, ch. 196, and the proceedings all filed here on the 8th of May, 1827. After which, on application, a survey was ordered, made, and plots returned; testimony was taken and