

The Chancellor (Johnson) having been counsel for complainants, referred the case on the 1st of February, 1849, to the *Honorable Nicholas Brewer*, an Associate Judge of the Third Judicial District, who delivered the following opinion, and passed the following order, on the 2d of March, 1849.]

This case was referred to me, as an Associate Judge of the third Judicial District, by the certificate of his Honor, the Chancellor, on the first of February last, and being ready for hearing, was fully argued on both sides.

Mrs. Henry M. Ogle, on the 7th day of April, 1814, executed her last will, and died on the 14th day of August, 1815. By her will she "devised all her estate, real, personal, and mixed, to her son, Benjamin Ogle, and three other trustees, to them, the survivors of them, and the heirs of the survivors, in trust, to pay all her just debts and funeral expenses, as soon as practicable after her decease, and in the manner most advantageous to her estate; and secondly, in trust, to apply the said estate and the rents and profits thereof, to the support and maintenance of her daughter, Mary Bevans, during her life, and the support and maintenance and education of her children, free from the power and control of her husband, and from and after her death, in trust for her children, to be equally divided amongst them, as tenants in common, and to their respective heirs, and in case at any time thereafter it should, in the judgment of her trustees, or the survivor or survivors of them, best promote the objects of the trust thereby created, to sell all or any part of her said estate, then she authorized her trustees, or a majority of them, the survivor or survivors of them, and the heirs of such survivors, to sell and convey all or any part of her said estate, and to vest the proceeds in lands, or banks, or other moneyed institutions, and apply from time to time, the rents, profits, interests, or dividends thereof, to her said daughter and her children, in the manner hereinbefore directed, free from the power and control of her said husband, her trustees taking care that the children of her said daughter be well maintained and educated, and after death the whole to be equally divided amongst