

voked into this case the before-mentioned proceedings, under the bill filed by these defendants *Jones* and wife against these plaintiffs; which case had been referred to the auditor, who had stated several accounts. But that this defendant *Larkin*, not being a party to those proceedings, or bound thereby, might, at any future period, impeach the correctness of the accounts of these plaintiffs, which had been approved in that case; that, owing to peculiar circumstances, to the localities of the property of the testator, and to the residence of these plaintiffs, and the *cestui que trusts*, a division of the trust property, and of the duties of these plaintiffs, was desirable, so that the plaintiff *Stockett* might have the management of the fund invested for the benefit of this defendant *Ann*, and that the residue of the estate might be confided to the plaintiff *Wayman*. Whereupon, the bill prayed for such decree as the court might deem just.

On the 24th of December, 1827, *Jones* and wife filed their answer to this bill, in which they admit the will and proceedings in the suit instituted by them, and say, that, in consequence thereof, a portion of the legacy of \$7,000, to wit: the sum of \$3,552, or thereabouts, had been brought in and invested, although not expressly asked or required to be brought in; that they were extremely anxious to have the balance brought in and invested, as should be recommended by them, who were alone interested therein; but objected to the separating of the joint trust reposed in the plaintiffs relative to the said bequest; at all events, not until the whole sum should have been invested in a manner satisfactory to these defendants.

On the 26th of March, 1828, the infant defendant *Larkin* answered by his guardian *ad litem*, that he was unacquainted with the facts stated in the bill, and prayed the protection of the court.

On the 31st of July, 1828, *Larkin Shipley*, then an infant, by *John Shipley*, his guardian and next friend, filed his bill against *Richard G. Stockett*, *Henry Wayman*, and *Samuel Jones* of *Joshua*, and *Ann* his wife. This bill states that the late *Larkin Shipley* made his will, &c. as before stated, which proceedings in the suit of *Jones* and wife, against *Stockett* and *Wayman*, he exhibited and prayed, might be taken as a part of this his bill; that this plaintiff *Larkin* was still an infant under the guardianship of his father *John Shipley*, who was unable out of his own funds, suitably to maintain and educate him; that during a short period, after the death of the testator, the defendants *Stockett* and *Wayman*, had advanced to the father and guardian of this plaintiff small sums for his maintenance and education, but