

name of Nicholas S. Barham administrator of his late wife having been duly executed, this cause came on to be heard on the bill, the answers of the other defendants, replications thereto and exhibits filed, and was argued by Counsel. On consideration whereof, the Court being of opinion that upon a just construction of the Will of Peter Booth, the words "shall be" were used in a restrictive sense, and embraced only that part of the estate which appears to have been delivered to Mrs. Holmes late Mrs. Barham before this suit is instituted; that the principal with the accumulating interest on the money now put out at interest together with the remainder in the chattels lent to the daughter till the first of January 1845 and the remainder in one third of the slaves after the first of January 1845 and after Mr. Barham's death, is undisposed of by the will and will go to the Testator next of kin, that is to say, One moiety to the descendants of his sister, the other moiety to the administrator of his brother as heirs of his estate - And the Court being further of opinion that the property devised and bequeathed by the Testator Peter Booth to Peter and John Holmes of Peter S. Holmes shall devolve before the first of January 1845 will return and pass as undisposed of estate to the Testator's heirs and next of kin, that is to say, One moiety to the representatives of the sister, and the other moiety to his brother's representatives, subject however to Mrs. Barham's interest in the land and slaves till January the 1st 1845 as also to her one third of the slaves and the profits of one third of the land from the first day of January 1845 till her death; And the Court being also of opinion that if Peter S. Holmes shall live till the first day of January 1845 then he will hold the land in fee simple subject to one third of the profits during her life, and be entitled to one third of the slaves in absolute right; that third of the slaves given to John will go, in the opinion of the Court in absolute right after the first day of January 1845 to Peter S. Holmes and his mother Mrs. Barham in equal moieties, and the three thousand five hundred dollars charged upon the land in his favour will go, one moiety to his mother and the other will sink into the land for Peter's benefit. And the Court doth adjudge, order and decree that Edwards Wells administrator do bring now of Peter Booth deceased render before a Commissioner of the said Court an account of his transactions on the estate of the said Peter Booth - that the Commissioner also take an account of the transactions of William and Henry Briggs as executors of said Peter Booth and of the administration of Henry Briggs by Francis M. Boyce unless he shall satisfy assets sufficient to pay any balances found to be due from Henry Briggs to the estate of Peter Booth. And the said Commissioner is directed to report the respective accounts with any remarks deemed pertinent by himself, or required by the parties or any of them to be set out -

Jacob H. Duck

against

Corr. Wm. J. Sheriff and administrators of Thomas Gray & Thomas R. Gray, Edwin Gray, Ann Gray, Nathaniel Parsons and the said Nathaniel Parsons as Executor of Seth R. Strong's estate and Ellen D. Gray an infant by Elizabeth R. Edwards her guardian ad litem.

Plffs

Defts

The defendant Edwin Gray who is out of the country and against whom the plaintiff has provided in the mode prescribed by law against absent