

ings and proofs now in the cause, and such further proofs, if any, as the parties may lay before him.

A. RANDALL, for Complainant.

DANIEL M. THOMAS, for Defendant.

HENRY WAYMAN AND LARKIN SHIPLEY, }  
 VS  
 RICHARD G. STOCKETT. }

JULY TERM, 1847.

[LIABILITY OF TRUSTEES—CHANCERY PRACTICE.]

A TRUSTEE for the investment of certain trust funds, for the benefit of certain *cestui que trusts*, paid a portion of the trust money into the Court of Chancery under its sanction, which remained there for some time uninvested. HELD—that he was not responsible for interest on the sums so paid into court for the time during which they remained uninvested.

Upon petition of a *cestui que trust*, the Chancellor passed an order directing certain mortgages belonging to the trust estate to “be forthwith closed,” and that the *cestui que trust* “have leave to cause a suit or suits to be instituted for that purpose, in the names of the trustees, in such manner as may be most proper, necessary and beneficial to him.” HELD—

That under this order, the *cestui que trust* might file a bill to foreclose a mortgage executed by one of the trustees to the trust estate, and was not confined to a proceeding by way of petition in the original cause.

[By the will of Larkin Shipley, executed in 1822, the testator devised the residue of his estate, real and personal, to Richard G. Stockett and Henry Wayman, in trust for his nephew, Larkin Shipley, for and during the term of his natural life, and if he should die without issue of his body lawfully begotten, then the property to be equally divided among his brothers and sisters, but if he should have lawful issue of his body at the time of his death, then to such issue share and share alike. The testator then directed the said trustees “to retain the sole possession and custody of the said estate, for the purpose of educating his said nephew, and to rent out the real estate, and put out the money on interest to the best advantage, and pay away the yearly proceeds, after his arrival at age, to him, but to retain a