

priety in leaving it with the residuary legatee until the final accounts are taken.

It is, thereupon, ordered, this 9th day of April, 1850, that this case be, and the same is hereby, again referred to the Auditor, with directions to state such account or accounts as will conform with the foregoing directions, from the pleadings, proofs and admissions, and such proofs as may be laid before him, and the parties are hereby authorized to take the depositions of witnesses before any justice of the peace, or before the Auditor, on three days' notice to the opposite party, or his or her solicitor, such depositions to be taken and returned on or before the 10th day of June next.

[No appeal was taken in this case.]

AMOS A. WILLIAMS vs. THE SAVAGE MANUFAC- TURING COMPANY.	}	SEPTEMBER TERM, 1848.
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[VACATING SETTLEMENT—PARTIES TO SUIT—SURCHARGING AND FALSIFYING
 ACCOUNTS—ACT OF 1845, CH. 367—APPEAL.]

TRUSTEES under a deed, one of the trusts of which was, that after satisfying the purposes of the deed, viz. the payment of the debts of the grantor, the residue of the property should be held for the use of the grantor, were also appointed his trustees under the insolvent laws; and, acting in this double capacity, transferred certain stocks belonging to the grantor (the complainant) to the defendant. All his debts having been paid, and the trustees directed by a decree of this court to convey to him all the property they had not disposed of in performance of their duty as trustees in insolvency: it was
Held—

That the complainant was entitled to maintain a bill for the recovery of the stock from the defendant, upon the ground, that the transfer had been improperly obtained; and, that the trustees were not necessary parties to such suit.

Where an agreement was made to settle a claim presented to the complainant, in the form of a stated account, which, without examination, was assumed to be correct, the complainant will be allowed to surcharge and falsify such