

Ordered, that this case be and the same is hereby referred to the auditor, with directions to report the whole value of the land *in the proceedings mentioned; the annual value thereof since the death of the testator; and by whom, if by any one, **76** the rents and profits thereof have been received, and the amount thereof; the amount of the arrearages of the annuity with interest; and the age and general state of health of the plaintiff Anna Maria Townshend; and that the auditor makes his statements and report as to these particulars, from the proceedings and such proofs as may be laid before him. And it is further ordered, that the parties be, and they are hereby permitted, to take the depositions of witnesses to be read in evidence, in relation to the matter of this order, before any justice of the peace, on giving three days notice as usual to the opposite party or his solicitor.

On the 25th of May, 1829, the auditor reported, that in execution of this order, and at the instance of the solicitor for the complainants, he issued notice to the parties, that he would attend at his office in Annapolis, on the first day of August then next, to receive such evidence in relation to the matters in dispute, as the parties should then produce before him, &c. The proof of service thereof on the defendant Robinson, was therewith filed. The counsel for the plaintiffs filed the following interrogatories, &c. And Samuel Harrison of John, a witness of lawful age, produced on the part of the complainants, being duly sworn and interrogated, deposed, &c. The auditor attended pursuant to the last adjournment; and neither party appearing, he adjourned *sine die*. That the complainants had since filed with him the deposition of John Hanan relative to the age and state of health of the complainant Anna Maria; and also their admission of the payment of three years annuity which were returned.

The auditor further reported, that upon consideration of the said testimony, and other the proceedings in the cause, the whole value of the land, in the proceedings mentioned, was \$2,983.50, or thereabouts. That the annual value thereof, at the time of the testator's death, and for five years thereafter, was \$200; and since that time to the present, \$150. And that the average annual * value thereof from the death of the testator to the present **77** time, might be estimated at \$175. That said land remained in possession of Deborah Duncan, the deceased's widow, from his death, on the 4th of March, 1819, to the latter end of 1824, the time of her death, say for the space of six years. There was no evidence of the amount of rents and profits actually received during this period. The value thereof, according to the proofs, might be estimated at \$1,150. That from the death of Deborah Duncan, the rents and profits of the said land had been received by the defendant Joseph Robinson. And the value thereof, to the 4th of