

come in for a proportion of said funds; and have not applied to be let in for such distribution. 5th. Because said report and account are not in conformity with the evidence in the cause, or warranted by the principles of equity, and are in other respects erroneous.

The defendant, Strike, excepted to the report of the auditor. 1st. Because the auditor hath not stated the claim of the said Strike which is filed in the said cause, and the evidence which shows the veracity of the said claim sufficiently proved therein. 2d. Because the auditor in his report hath mistaken both the law and the fact relating to the said claim of the defendant Nicholas Strike.

WARD, A. J., 31st January, 1825.—In this cause, upon motion of the complainants' solicitor, it is ordered and decreed, that it be referred to the auditor of this Court, to state an account of the sums appearing due in this cause from the defendants, or either of them, to the plaintiffs; and also to take an account from the proofs in the cause, or such other proofs as may be required by him of the rents and profits of the several premises contained in the deeds of 16th January, 1811, from the defendant Rogers to the defendant Strike; and also of the taxes and necessary repairs paid on the same by him; and also such further account as he may be directed to take by the said plaintiffs or defendants, and submit the same by report to this Court, reserving further consideration, &c.

On the 17th May, 1825, the auditor reported, that since his former report, the complainants had filed additional claims against Rogers, which were therewith stated. And the auditor further reports, that since the 13th February, 1824, when he stated an account between the estate of John Rogers and Henry W. Rogers and *Samuel Moale, trustees of the said John Rogers, and made a statement of the claims against said John Rogers, **65** (which said account and statement are filed in this Court,) the complainants in this case have filed additional claims against said Rogers, which are herewith stated. And the auditor further reports, that the claims of Hollingsworth & Worthington and Irvine & Beatty, contained in the foregoing statement, have been withdrawn; and that, except the schedule of John Rogers, there is no proof to establish any of the claims contained therein, but the claims of the complainants and of Robert Taylor. That the claim of the said Taylor is for a judgment rendered against Robert Henderson, the former partner of Rogers, at October Term, 1812, of Baltimore County Court, on a joint action with Rogers, which said judgment was revived against Henderson at March Term, 1821. The auditor further reports, that he has herewith made a statement of the rents received by Strike, and the sums expended in repairs done on the property in this cause mentioned, and in