

the other proceedings, to which it purports to be an answer, it cannot be evidence in this cause, and must be rejected.

With these explanations, determinations and directions, the case is referred to the auditor to state an account accordingly; and the several exceptions, as well of the plaintiffs as of the defendants, to the auditor's statements and reports heretofore made, so far as the same are inconsistent with the determinations and directions herein before given, are overruled, and so far as they may agree therewith, are sustained.

The complainants afterwards filed a petition stating, that they originally employed as their counsel Henry M. Murray and Henry W. Rogers, and agreed with them, in case of the successful termination of this case, by a final decree against Strike in this Court, to pay them ten per cent. each, on the amount of the proceeds of the suit, as a compensation for their services, subject to a deduction of whatever moneys should be paid to them in the mean time, on the account of this suit; and that after the interlocutory decree was obtained, Murray and Rogers applied to Baltimore County Court to fix their per centage on the amount then received by the sale under the decree, while this suit was pending there, which

98 * was allowed by that Court, under the impression, that those gentlemen were to proceed in the case to a final decree; upon which condition alone, was the per centage to be allowed. The petitioners further stated, that Henry M. Murray, soon after that order was passed, died, without proceeding further in the case, after the auditor's first report therein, and the petitioners have, in place of Murray, been compelled to engage Charles Mitchell as their counsel, who has attended to the same since; and the petitioners had alone borne all the expenses of the suit. Wherefore they prayed, that the same per centage, in proportion to his services, might be allowed to Charles Mitchell, as was to be allowed to Henry M. Murray, if he had lived, to be ascertained by this Court subject to a like deduction therefrom, of the money advanced by the complainants to him during the progress of this suit, or that this Court would be pleased to prevent any further burthen of the counsel fees in this case upon the petitioners, but that the fund may contribute thereto, under the agreement aforesaid.

BLAND, C., 17th April, 1826.—The Chancellor has read and considered the foregoing petition. No objection was intimated to him, against the claim of Henry M. Murray, until after the argument, and the Chancellor was engaged in deliberating upon and maturing those directions, with which this case has been lately sent to the auditor. The Chancellor knows of no practice of this Court, or of any analogous proceeding of the English Court, which