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CHANCERY PRACTICE.—ORDER TO BRING MONEY INTO COURT.—AGREEMENT TO REFER TO ARBITRATION.—FORFEITURE OF LEGACY BY CONTESTING WILL.—WHEN LEGACY WILL VEST.—LIABILITY OF TRUSTEES.—INVESTMENT OF LEGACIES.—EVIDENCE.

The plaintiff may set the case down for hearing on bill and answer; but, in doing so, he admits the truth of every fact set forth in the answer.

Where an application is made, grounded on admissions in the answer, for an order on the defendant to bring money into Court, the whole of his answer must be taken together and for true. (*a*)

An order confirming an auditor's report is a judgment of this Court, final in regard to the matter to which it relates. (*b*)

The foundation for an order to bring money into Court, must be found in the direct progress of the case, and be such as is not open to be removed or explained away.

No direction in a will, nor any mere agreement to refer a controversy to arbitration can oust the proper Courts of justice of their jurisdiction in the case. (*c*)

(*a*) See *McKim* v. *Thompson*, 1 Bland, 150.

(*b*) Approved in *Pfeaff* v. *Jones*, 50 Md. 269; *Wayman* v. *Jones*, 4 Md. Ch. 512.

(*c*) Approved in *Trott* v. *Ins. Co.* 1 Clifford, 443.

Agreements to refer to arbitration. Agreements in advance to oust the Courts of the jurisdiction conferred by law are illegal and void. *Ins. Co.* v. *Morse*, 20 Wallace, 451; *Allegre* v. *Ins. Co.* 6 H. & J. 408. A Court of equity will not, any more than a Court of law, enforce an agreement that in case of dispute the matter shall be referred to arbitration, but it will leave the parties to their own good pleasure in regard to such agreements. The regular administration of justice might be greatly impeded or interfered with by such stipulations, if they were specifically enforced. *Story Eq. Jur.* sec. 670, approved in *Ins. Co.* v. *Morse*, *supra*; *Noyes* v. *Marsh*, 123 Mass. 286. A stipulation in a contract to submit any dispute concerning it to arbitration is no defence to an action at law. *Wood* v. *Humphrey*, 114 Mass. 185; *Pearl* v. *Harris*, 121 Mass. 390. But such an agreement if only preliminary to the action, such as respect the mode of settling the amount of damages, or the time of paying it, will be sustained. *Ibid.*

"If two persons, whether in the same or a different deed from that which creates the liability, agree to refer the matter upon which the liabilty arises to arbitration, that agreement does not take away the right of action. But if the original agreement is not simply to pay a sum of money, but that a sum of money shall be paid if something else happens, and that something else is that a third person shall settle the amount, then no cause of action arises until the third person has so assessed the sum. For to say the contrary would be to give the party a different measure or rate of compensation from that for which he has bargained." *Elliott* v. *Assurance Co.* L. R. 2 Ex. 237; *Dawson* v. *Fitzgerald*, 1 Ex. D. 257.

"Parties may, if they choose, make arbitration a condition precedent to any right arising at all, and in that case the foregoing rules are inapplicable: