

raised out of the rents and profits by putting a receiver upon the estate, or may grant a personal decree against infants or their guardian in possession of the land in respect to the amount of rents and profits received by them. (b)

An annuity given by will is, for many purposes, treated as a legacy, and so considered its payment may certainly be enforced in equity.

The office, powers, and duties of masters in Chancery in England; and of the auditor of this Court.

It is within the scope of the auditor's duties to make any inquiry, to take testimony, to state any account, or to frame any statement which may be necessary and proper to enable the Court correctly to dispose of a case. (c)

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(b) The decree made in the case in the text was reversed on appeal in *Robinson v. Townshend*, 3 G. & J. 413, upon the ground that as the bill contained no allegation or suggestion of the receipt of the rents and profits by the defendants, or any of them, nor of the annual value of the land, nor of the application of the rents and profits, and did not call upon the defendants to make any disclosures upon these subjects, there was no issue to which evidence which had been taken in the cause in relation to them could apply, and there could be no decree *in personam* against the defendants under this state of pleadings. The Court of Appeals said in conclusion: "We do not mean to say that the complainants would not be entitled to relief on a proper case made against the proper parties, and supported by appropriate proof."

(c) Approved in *Trustees v. Heise*, 44 Md. 465, where the Court said: "The auditor is the calculator and accountant of the Court, and when any calculations or statements are required, all the pleadings, exhibits and proofs are referred to him, so that he be enabled fully to investigate and put the whole matter in proper order for the action of the Court. His office, while not in all respects the same, is yet to a certain extent very analogous to that of a master in Chancery. His powers and duties are fully stated and defined by Chancellor BLAND in *Dorsey v. Hammond*, 1 Bl. 463, and *Townshend v. Duncan*, 2 Bl. 45, 74." The appointment and duties of auditors in equity are prescribed by Rev. Code, Art. 59, sec. 17. As to their compensation see *Ibid*, sec. 18, and Art. 65, sec. 54. The proceedings before auditors are regulated by Equity Rules, 53-56.

The general rule is that when funds are in Court for distribution among creditors and the auditor reports that certain claims have not been proved, or objections for want of proof are made to their allowance by parties interested, the case is again referred to the auditor with directions to state a final account, from which all claims not then sufficiently proved are to be excluded, and leave is given to supply the proof upon such terms as to notice as may be deemed reasonable. Upon the coming in of the report of the auditor, made pursuant to the order, and after the usual time given for filing exceptions, the report may be submitted for ratification, and when ratified, all parties are concluded, and the litigation is terminated. *Dixon v. Dixon*, 1 Md. Ch. 271. But there may be cases in which this rule ought to be relaxed if the party seeking relief can show himself free from blame. *Ibid*. Where funds still remain in the hands of a trustee, a creditor who has no knowledge of an audit may apply to the Chancellor for a new reference, and claim to participate upon due proof of his demand; but the general rule is different after final ratification as to one whose claim has been first suspended and afterwards rejected for want of proof. *Kent v. O'Hara*, 7 G. &