

Testimony may be taken under an order before a justice of the peace.

The probate of a will, in relation to real estate, considered as *prima facie* evidence.

A decree against infants for the payment of money.

* THIS bill was filed on the 17th of August, 1826, by Perry Townshend and Anna Maria, his wife, against William J. B. Duncan, Caroline Duncan, who are infants, Joseph Robinson and Thomas Iglehart. The bill states, that William Duncan being seized and possessed of a considerable real and personal estate, on the 26th of December, 1818, made his last will, which, so far as concerns the matter in controversy, is as follows: 46

“I give and devise unto my daughter Caroline Duncan, and my son William Joseph Bend Duncan, the plantation whereon I now dwell, consisting of several tracts, or parts of tracts of land, one of which is called and known by the name of Burgess’ Right, and part of a tract in two parcels, called Puddington’s Harbor, otherwise called Puddington’s Gift, being contiguous to each other, and containing, in the whole, two hundred twenty-nine and one-half acres, more or less, to them and their heirs forever, to be equally divided between them, share and share alike as joint tenants, and not as tenants in common. I give and bequeath to my daughter Anna Maria Duncan, the sum of sixty dollars, current money, as an annuity, to be paid to her out of the profits of my real estate above mentioned, annually for and during the term of her natural life, withholding from her, however, the power of selling or transferring the above mentioned annual allowance to any person or persons whatever, under penalty of forfeiture. I do hereby constitute and appoint my dear wife Deborah Duncan, sole executrix of this my last will.”

The bill further states, that the testator, William Duncan, died, on or about the 25th of March, 1819, leaving those children, the plaintiff Anna Maria, by a first marriage, and the defendants William and Caroline, both of whom were then and still are infants, by his wife Deborah, the legatees and devisees mentioned in his will; that the said Deborah administered and died; and that Thomas Iglehart took out letters, and was then the administrator *de bonis non* of the deceased; that the said Deborah, before her death, paid the plaintiff Anna Maria, one year’s allowance after her father’s death; and that Joseph Robinson, who had been appointed, and then was the guardian of the said infants, had also

open for revision in the Appellate Court. *Walsh v. Boyle*, 30 Md. 262. Where accounts are stated by the auditor to represent the views and claims of the respective parties under their instructions, such accounts may be reviewed on appeal, though no exception thereto was taken in the Court below by either party. *Walter v. Foutz*, 52 Md. 147. As to how interest should be calculated, see *Hammond v. Hammond*, *post*, 306, *note*.