

rents and profits received by them. *Thorndike v. Allington*, 1 *Chan. Ca.* 79; *Elliot v. Hancock*, 2 *Vern.* 143. It is therefore clear, that these plaintiffs have sufficiently set forth such a combination of facts, as shews that they have a just claim to relief; and that they may, with propriety, ask that relief of a Court of equity. *Com. Dig. Lit. Chancery*, 3 *R.* 3.

It appearing then, that these plaintiffs have just grounds to ask relief of this Court; and that, therefore, the case may be referred to the auditor for any purpose falling within the scope of its duty; the next inquiry is, as to the mode in which they should be relieved. In making this inquiry, it must be recollected, that this is a case of provisions for children, which admits, perhaps, of a greater variety of determinations, and of judgment on circumstances, than any other kind of case that can be brought before a Court of equity, *Teynham v. Webb*, 2 *Ves.* 206; and that the relief, whatever may be its form, is to be granted against infants; for the protection of whose interests the Court is in the habit of proceeding guardedly and with caution. *Stapilton v. Stapilton*, 1 *Atk.* 6; *De Manneville v. De Manneville*, 10 *Ves.* 59; *Still v. Hoste*, 6 *Mad.* 192. It will therefore be proper to make some inquiry into the particulars and details of this case, that the Court may be enabled properly to exercise its greater latitude of determination, for the benefit of all these children, and with the least disadvantage to the interests of these infants.

It may be, that this real estate is, in truth, of much less, or of no greater value than the annuity with which it is charged. In that case, it would be thus shewn to have been the intention of the testator, who must have known the value of his estate, to give to the plaintiff, Anna Maria, a life interest in it; or that, whatever might have been his intention, his express direction would be *carried into effect, most beneficially for all concerned, **55** by a sale. But if, on the other hand, it should appear, that the annual value of the land was greatly more than sufficient to pay the annuity, then it may fairly be inferred, that the testator could not have intended that the estate should be sold; but as the annuity might, so it should, as expressly directed, be raised out of the rents and profits. *Iry v. Gibert*, 2 *P. Will.* 19; *Colpoys v. Colpoys*, 4 *Cond. Chan. Rep.* 210. In order to form a correct opinion as to those matters, an inquiry must be made, and the Court must be informed as to the value of the land; the amount of its annual value; of its rents and profits; and also of the age and health of the annuitant, so as to enable it to put a present value upon the annuity, compared with the land upon which it is charged. And as there may be a personal decree in respect to the amount of the rents and profits actually received, or which might and ought to have been received by some of these defendants, it will be proper