

tor had found it difficult to make an accurate report for the want of a plot of the land in dispute, designating the particular part in the possession of each one of the defendants, so as to apply the testimony to each, as directed by the order of the 5th of December. Whereupon he prayed for a survey; for leave to take further testimony, &c.

After which an agreement in the following words was filed. "It is agreed between the parties to said cause, that Matthew Bennett, one of the defendants, be struck out as a party to said bill without prejudice to said cause. And it is further agreed, that the auditor's report be remanded to him; and that the commission to take testimony to be used before the auditor, be remanded to Baltimore, and that a plot be made of the land in dispute in said cause, and the witnesses be examined in relation thereto, agreeably to the complainant's petition filed on the 24th instant. And it is also agreed, that so soon as the auditor's report is completed and filed, that the said cause shall be set down for final hearing."

BLAND, C., 5th June, 1830.—Ordered, that this case be and the same is hereby again referred to the auditor; that the said commission, or a duplicate thereof, be sent to the commissioners to take further testimony; and that a survey be made of the property in the proceedings mentioned, as prayed, on giving the usual notice. Provided, that the testimony and plots, hereby allowed to be taken and made, be returned and filed in the Chancery office on or before the 24th day of July next.

Under this order the lands were laid down and plots with much additional testimony was returned.

The auditor, on the 29th of March, 1831, filed his report, in which he says, that he had restated all the accounts and made his **596** \*calculations up to the 17th of February, 1831. He then goes on to say, that the complainant had located the four purchases of Fitzgerald, a defendant, stating upon his plot the dates of the several conveyances. The auditor has, for want of better evidence, adopted those locations and statements. The complainant has examined three, and the defendant five witnesses to prove the permanent ground rent which those lots would have yielded, if they had been leased between the years 1804 and 1810. Mary Riley, one of the complainant's witnesses, has also proved, that there were two houses on the lots erected in or before the year 1797; viz: a single frame house two stories high, and a double frame house one and a half story high. The auditor infers from other testimony, that those houses might have rented for, from three to five dollars a month each. But there is no proof of their value, independent of the ground rents attached to them; and the auditor infers, that the ground was chiefly valuable for the