

The defendant *John Diffenderffer* excepted to the report of the auditor, and the accounts C, D, and E, therewith returned; because he is, in the said accounts, charged with the payment of interest, with which he is not chargeable in law; because, in the said accounts, he is charged with compound interest, which is altogether illegal and unjust; because, in the said accounts, he is not allowed interest on the sums with which he is credited; because, in the account C, he is not allowed a commission or compensation in any form; because, in the said accounts, he is not allowed the credits claimed, and stated in accounts A and B; because, all the said accounts, stated and reported by the auditor, except A, are erroneous, unjust, and illegal; and because, the auditor has assumed the statements of the former auditor as correct, whereas the same are erroneous in law and fact; particularly in regard to the sum of \$2,578 77, charged as over payments to *Mrs. Lee*, *Mrs. Martin*, and *Mrs. Bailey*.

After which the defendant *John Diffenderffer* by his petition, accompanied by an affidavit of *Paul G. Hands* in relation to the matter of the petition, stated, that since the report of the auditor, he, the petitioner, had discovered material and important testimony, requiring additional accounts to be stated, in order to bring a full and perfect view of the defendant's case before the chancellor. He therefore prayed, that the case might be again sent to the auditor with leave to take further testimony, &c.

21st February, 1829.—BLAND, Chancellor.—Ordered, that this case be referred to the auditor with instructions to state such further accounts as may be required by the parties upon the testimony in the case, and such other proofs as may be produced before him, on giving the usual notice: And either party may take testimony before the commissioners appointed for Baltimore county, or any justice of the peace on giving three days notice as usual; provided, that such testimony be taken and filed in the chancery office before the seventh day of March next.

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The auditor reported, that under this order he had taken the deposition of *Paul G. Hands*, and as his testimony related altogether to the account of the trustee *Vincent*, he had corrected that account accordingly; and that he had, by the instructions of the defendant *John Diffenderffer*, stated another account, marked F, which differed from account B, returned with his former report. To this account the plaintiffs excepted. And, on the application of the plaintiffs,