

safer and better. It may be found to be least injurious to the interest of these infants, and without disadvantage to any one else, to have the land sold for the payment of this annuity; or it may be deemed necessary to have it raised out of the rents and profits by putting a receiver upon the estate, which could not be done by a court of common law, (*l*) or there may be a personal decree against them, or their guardian, in respect to the amount of the rents and profits received by them. (*m*) 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. (*n*)

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; (*o*) 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. (*p*) 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

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(*l*) *Thorndike v. Allington*, 1 Chan. Ca. 79; *Davy v. Davy*, 1 Chan. Ca. 147; *Kennoule v. Bedford*, 1 Chan. Ca. 295; *Bath and Mountague's case*, 3 Chan. Ca. 91; *Sherman v. Collins*, 3 Atk. 319; *Nicholls v. Leeson*, 3 Atk. 574; *Leeds v. New Radnor*, 2 Bro. C. C. 339 and 519; *Cupit v. Jackson*, 6 Exch. Rep. 245.—(*m*) *Thorndike v. Allington*, 1 Chan. Ca. 79; *Elliot v. Hancock*, 2 Vern. 143.—(*n*) *Com. Dig. Lit. Chancery*, 3 R. 3.—(*o*) *Teynham v. Webb*, 2 Ves. 206.—(*p*) *Stapilton v. Stapilton*, 1 Atk. 6; *De Manneville v. De Manneville*, 10 Ves. 59; *Still v. Hoste*, 6 Mad. 192.