

Upon the whole, I am of opinion, that the opposition to this claim of *Joseph N. Stockett* as administrator is altogether untenable; and that therefore it must be allowed to take its stand as one of the preferred claims provided for by the deed of trust.

The claims of *Saunders'* representatives, and all others not now authenticated, or admitted according to the course of the court, must be altogether rejected.

Whereupon it is *Ordered*, that this case be, and the same is hereby referred to the auditor, with directions to state an account accordingly.

In obedience to these orders the auditor made a report, which was confirmed on the 14th of August, 1829.

TOWNSHEND v. DUNCAN.

A plaintiff must state in his bill such facts as are necessary to entitle him to relief; and also shew why he may ask that relief of a Court of Equity. Where the case set forth in the bill is such as to entitle the plaintiff to relief, the court may have further inquiries made by the auditor, so as to adapt the relief to the peculiar nature of the case. Where an infant takes as devisee, it is not necessary to charge in the bill that he received the rents and profits; because it is the duty of his guardian to take care of his estate. This court has jurisdiction to decree an account of an annual sum charged upon land. The office, powers, and duties of masters in chancery in England; and of the auditor of this court. 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.

After which the case was again called up for hearing upon the exceptions.

12th October, 1803.—HANSON, Chancellor.—The Chancellor having appointed this day for deciding on the claims of Benjamin Oden, and of Stephen West's executrix against the estate of Benjamin Brookes deceased, and the counsel on each side having submitted the questions without argument, the Chancellor proceeded to examine the papers and vouchers relative to the said claim.

There appears no reason wherefore the Chancellor should differ from the auditor relative to West's claim. It is therefore wholly rejected. As to the claim of Oden, nothing appears wanted except his affidavit. The opposite counsel, however, Mr. William Kilty, being in court, and expressing his approbation of and assent to the said claim; it is allowed to be good. Let the auditor of this court make a statement accordingly of the money reserved on account of the rejected claims.

The auditor afterwards made and reported a statement accordingly, shewing a surplus to be paid to the heirs of Benjamin Brookes, which statement was, on the 21st of October, 1803, approved, and the proceeds directed to be applied accordingly.