

passed a decree for a sale of the property, appointing a trustee for that purpose, with directions to sell the same, and to bring the proceeds into court for distribution under its direction.

This has been done, and the Auditor has reported two accounts, apportioning the proceeds of the sales between the representatives of Frances H. Harris, the wife, and David Harris, the husband.

In the account marked C., the proceeds of the sales are applied in proper proportions to the payment of the claims of these parties, on account of the arrears of the annuity, excluding altogether any claim founded upon the legacy of £2250 for the reason stated in the report.

In the other account marked D., the Auditor has included the legacy and treated it and the arrears of the annuity as constituting one claim, and standing on the same footing.

To both these accounts exceptions have been filed by the representatives of David Harris, and these exceptions and other questions connected with the final disposition of the case, have been argued by the counsel for the respective parties.

The Chancellor does not deem it at all proper or necessary to express any opinion with regard to the question whether, by the will of Richard Moale, the legacy of £2250 was with the annuity of £500 given to his wife, a charge upon the real estate of the testator in the lands of the residuary devisee, John Moale, or those claiming under him.

That question he considers to have been settled in the affirmative, by the decree of the 13th of May, 1790, by which the rents of all the lands are charged with the payment of the annuity due, and to become due, *in the first place, and after the said payment*, the reversion is declared to be chargeable with the payment of the legacy. The same view was taken by the court in 1820, when the order of the 20th of September of that year was passed, though for reasons, which are not very apparent, the court, at that time, forbore passing a decree for the sale of the property to pay the charges which it declared to exist. Neither does the Chancellor think it incumbent upon him to look into the grounds of the decree of January, 1845, under