

expressed his opinions decidedly on many items of the account, yet it was held, these opinions were subject to the review of the Chancellor, and the whole case only to be acted upon after the report, and, therefore, that an appeal did not lie. The case of *Hungerford vs. Bourne*, 3 *Gill & Johns.*, 133, is a case also in point. This case is as strong as either of the last two cases, for the Chancellor merely expresses an opinion as to some of the items of the account and leaves the whole matter to be finally adjudicated upon, according to the aspect of the case when further testimony which might possibly materially affect it should be taken and the report and account filed. No right being finally determined by that order it cannot be considered as conclusive on any of the parties to the case.

This question seems also to be settled by the act of 1830, ch. 185, sec. 1, which provides that "no appeal shall be allowed from any order or decree unless it be a *final decree*, or an *order in the nature of a final decree*." What a final decree is we need not say. An order in the nature of a final decree is just such an one as the Chancellor has declined to pass in this case, to wit, "an order confirming the Auditor's report." See 2 *Bland*, 264, *Contee vs. Dawson*.

This case has not been argued upon the exceptions of Mrs. Anne Jones to either of the reports and accounts of the Auditor, so that a decision on some of the points in which she was interested, and which is now desired, was neglected.

With regard to her exceptions filed on the 12th of January, 1850, the second exception is overruled. As to the first and third, the amount charged against Wayman by account A., should be lessened as to Mrs. Jones, by interest on the Farmers and Merchants Bank stock, during all the time that she received the dividends, but he is to be charged further, according to her exception last filed, with interest, from the time of the purchase to the time of the transfer. His account is not to be lessened by the principal of the Savings Institution stock, nor by the interest, except during the time that she received the dividends.

As to the exceptions to the accounts B. and C., the Auditor will be governed by the same principles decided on in the account A.