

lay out the lands accordingly and make return of a plot thereof. And the trustee having reported, that he had made sale of the estate, as thus laid off into lots, and had given notice to the creditors of the deceased to file their claims as required by the decree, the sales were finally ratified, no cause having been shewn to the contrary after the usual order of publication.

On the 29th of February 1828, the auditor reported, that he had examined the proceedings and stated all the claims exhibited against the estate of the deceased, and an account between the estate and the trustee, in which the proceeds of sale were applied to the payment of the trustee's commission and expenses, costs of suit and survey, county taxes, and dividends on all the claims stated. But that claim No. 3 was not proved as required by the act of 1798, ch. 101 ; that claim No. 4 was against the deceased as surety, and that the insolvency of the principal debtor was not proved ; and that absolute judgments had been recovered against the executor by the creditors for claims No. 3, 4, and 5, which judgments being conclusive evidence of the sufficiency of the personal assets to satisfy those claims, had destroyed the right of those creditors to resort to the real estate. On the 6th of March following the auditor made another report, in which he says, that he had admitted two other claims, and had re-stated the account, and had deducted the additional costs from the dividends allotted to the two newly admitted claims.

*22d March, 1828.*—BLAND, *Chancellor.*—This case having been submitted, in relation to the claims reported by the auditor as No. 3, 4, and 5, on the remarks in writing of the solicitor of those claimants, the matter has been maturely considered.

It has been insisted, that the auditor had no right to make such objections, as those set forth in his report, to any claim. I do not recollect ever to have met with an instance in which an auditor's report has been opposed upon similar grounds before. I deem it therefore proper to say something upon this subject, not because I entertain any doubt, or perceive any difficulty, but from a wish that the practice and course of the court should be better understood.

From the nature of the cases brought before this court it is perfectly obvious, that calculations, dividends, and statements of accounts must often be required to be made for the elucidation of the matter, or as preparatory to a decree, or order. Formerly such accounts, or statements were most usually made under a special commission for that purpose, directed to certain commissioners who were