

On the 20th of April, 1829, *Philip G. Lechleitner*, as a claimant against the proceeds of sale in this case, by his petition, not on oath, stated, that the sheriff *O'Hara* had, by a special contract, agreed to accept as a compensation for his services a sum about two-thirds less than his legal poundage fees. Whereupon he prayed, that *O'Hara* might be ordered to answer, and that the matter might be reheard. On the 21st of the same month this application was dismissed with costs.

On the 25th of April, 1829, *George Neilson*, administrator of *James Neilson*, deceased, *Eli Balderson*, *Benjamin Welch* and *Hugh Mullen*, creditors, who had filed their claims against *The Cape Sable Company*, under the decree, by their petition, not on oath, stated, that no payment had then been made to *O'Hara* under the order of the 15th December; that the time allowed by the notice given, as directed by the decree, for creditors to bring in their claims, expired on the 30th of December last; after which day, and before the passing of the order of the 15th of December, they had filed their claims; and, therefore, they had neither in point of law or of fact, any notice of *O'Hara's* petition, or any opportunity of controverting his claim; that *O'Hara* had entered into a special contract to accept as a compensation for his services, much less than his legal fees; and yet had, in his petition, suppressed all mention thereof; thereby leaving the court to presume, that he was entitled to the full amount of his poundage fees. Whereupon they prayed, that *O'Hara* might answer; and that they might have such relief as seemed right, &c.

27th April, 1829.—BLAND, Chancellor.—Upon this petition I must repeat what I have said on the petition of *Philip G. Lechleitner*, that the order of the 5th of November last, placed it in the power of all who had a right to oppose the claim of *William O'Hara* to do so on the day appointed. The matter of the foregoing petition, it is clear, might, then as now, have been offered as a cause why *O'Hara's* claim should not be allowed; but it was not then presented. This petition assigns no reason why this matter was not then introduced by the parties who might then have done so. Whether this suit was then to be contemplated as a creditor's bill or not; or, in whatever light *O'Hara's* claim may be considered, it is very clear, that it has been regularly put in issue, tried and adjudicated upon between him and those with whom, if at all, he contracted as is alleged, and of whom he had a right to make the demand. On a creditor's bill the originally suing credi-