

*Rep.* 331; — *v. Edmunds*, 1 *Com. Law Rep.* 411; *Burn v. Carvalho*, 28 *Com. Law Rep.* 232; *De Tastet v. Rucker*, 4 *Exch. Rep.*

stated the said account he return it to this Court, subject to be done with as to the Chancellor shall seem just.

In obedience to this order, the auditor reported, that from the exhibits filed by James Pattison, he had stated an account marked No. 1, on which there was due £3,992 2s. 7d. including interest to the 12th of April, 1796, the day on which the land was sold. That from the books of James Pattison, he had stated account No. 2, wherein the defendant was charged with what he actually appeared to have received, without paying any regard to the settlement made by the parties, and the bond given by the defendant. The balance in this account is only £2,379 19s. 8d. including interest as aforesaid. That the difference in the accounts Nos. 1 and 2, arises from the complainant's turning the account into tobacco, when tobacco was very low, and from some charges in the proved accounts, which do not appear in the books exhibited to the auditor, and from some other small mistakes in their settlements.

To this report of the auditor, Jacob Pattison, the executor of the original plaintiff, excepted: 1st, for that the auditor hath only allowed the price of 30s. current money, per cwt. for tobacco, when the current price of that article, at this time, is from £3 to £3 10s. current money, per hundred. And inasmuch as the debt is due, and payable in tobacco, the rules of justice require that a full equivalent in money should be allowed on the same being commuted and changed into money; 2d, for that the same is erroneous and incorrect in the following particulars: 1, for that the auditor hath paid no regard to the settlement between James Pattison and Alexander Frazier, deceased, which took place on the 3d January, 1788, when the said Frazier gave the said Pattison his bond, as stated in account No. 1, and which said bond was a final adjustment between them of all outstanding transactions, and the same ought not to be unravelled, unless for errors; 2, for that the said auditor, in extending the tobacco, which is the real debt due, hath only allowed 30s. per hundred at this time, when the current price of tobacco is from £3 to £3 10s. per cwt.

HANSON, C., 28th November, 1797.—The Chancellor proceeded to consider the exceptions of James Pattison's executors to the report of the auditor, relative to the said Pattison's claim against the deceased.

The auditor has stated the account in two ways. In one he has charged the articles on each side, from the beginning, without regard to a bond for tobacco, given, as it is alleged, on a settlement of accounts between Pattison and Frazier, up to the date of the bond. In the other, he has begun with the said bond, and then added the subsequent articles.

It is material, perhaps, that no exception is taken on the part of the creditors in general, or of the heir. This being the case, and there being no allegation of fraud, or even error in taking the said bond, the Chancellor conceives that he cannot do otherwise than adopt that account in which Frazier is charged with the amount of the bond.

The exception relative to the price of tobacco appears to the Chancellor unreasonable. All sales, under decrees for the payment of debts, are directed to be made for money; and it has been the practice of this Court to direct the auditor to state the claims of all creditors, exhibited to the Chancellor, up to the day of the sale of the property on credit, in order that the