

the usual notice to all the parties, he had attended at his office, * and taken the depositions of witnesses, and among others, the depositions of the defendants William D. Bowie and **612** John Contee, who, by an order passed on the 14th of January, 1830, were allowed to be examined, subject to all just exceptions.

The auditor further says, that he had examined the proceedings, and supposes that the real estate which was devised by Baruck Duckett to William Bowie, of Walter, and which he devised to his children, Walter and Kitty, is to be treated as parcel of "all the property" devised by the testator William, to be kept together and worked by the family slaves, until Walter's arrival at age, for the support of the family. He also supposes, that the negroes devised by the testator Baruck to the younger children of the testator William, to vest on their arrival at age; and which are now retained by the executors of the testator William, as the shares of the estate of the testator William, until their arrival at age; and their profits until that period are to be accounted for as parcel of said estate. Assuming these positions, the auditor has stated an account between the executors of William, and his estate, in which they are charged with the balance of the personal estate in their hands, at the date of their last administration account, and with the appraised values of the aforesaid land and negroes to the first day of January last; and are allowed ten per cent. commission on the amount of the inventory of the personal estate returned by them; and the additional property and profits accounted for by them, and five per cent. commission on the amount of debts collected; from which account, their appears in the hands of the executors, a balance of \$12,223.48; consisting in the whole, or for the greater part, of specifics. The executor, William D. Bowie, in his deposition, estimates the amount of the outstanding debts at \$9,000. But no claim, except that of the plaintiff's, which is stated and returned herewith, has been exhibited; nor have the creditors been notified to produce their claims. The auditor is therefore unable to make any appropriation of the balance in the hands of the executors.

The auditor further reports, that by the last will of the testator William, "all the property" is devised to be kept together and worked, until his son Walter's arrival at age, for the support of the family; and the net profits, after payment of the testator's debts, are to be divided amongst his children, Eliza, Walter, Kitty and Richard. And after several specific legacies, "all the residue" * of his "personal estate" is bequeathed to his wife, **613** and the before named children. The auditor supposes that the testator's debts are charged in the first instance upon the profits of the estate; and that as between the legatees, the personal estate is liable only in the event of a deficiency of profits to