

BLAND C., 13th March, 1830.—This case having been again submitted on the part of the plaintiffs, with a prayer for a decree to account; and with notes on the part of the defendants objecting to the passing of any such decree, the proceedings were read and considered.

On a careful consideration of all the affidavits filed since the passing of the order of the 6th of July last, it very satisfactorily appears, that the defendant John Odom always has been since the institution of this suit; and must still be deemed a resident of the State of Maryland; and therefore the order of publication treating him as a person who resided beyond the jurisdiction of this Court, is erroneous in point of fact, and has been improvidently passed.

Whereupon it is ordered, that the said order of the 31st of October last, be and the same is hereby rescinded.

After which the death of the plaintiff Moore was suggested; and on the 1st of October, 1830, the defendant Odom put in his answer to this amended bill, which was, in substance, the same as his answer to the first bill. To all these separate answers of the defendants, the plaintiff put in a general replication. A commission having been issued, was returned and filed on the 29th of December, 1830, without any testimony having been taken under it. After which the commissioners, on the 7th of March, 1830, **432** filed a certificate, in which they stated, that by an agreement *between the solicitors, the return of the commission had been delayed, at the instance, and for the convenience of the defendants, in order that they might, if they thought proper, take any testimony they wished; but that the plaintiffs were not to lose the benefit of having the commission returned as before the December Term. At the following March Term the case was again brought before the Court.

BLAND, C., 15th March, 1831.—On motion of the plaintiff's solicitor, it is ordered, that this case be and the same is hereby referred to the auditor, with directions to state such an account as the nature of the case may render necessary; and such other accounts as either party may require.

After which the auditor, on the 3d of June, 1831, reported and filed a statement of an account between John Odom, and the owners of the schooner Beauty, shewing a balance of \$5,634.82, to be due to the plaintiff McKim. To which the defendants filed exceptions, and the case was again presented to the Court.

BLAND, C., 10th August, 1831.—This case standing ready for hearing, and having been submitted on notes by the solicitor of the