

After which the auditor made another report, bearing date on the 19th of May, 1831, in which he says, that he had, at the instance of William O'Hara, stated an account between the trustees and the estate of the Cape Sable Company, whereby the proceeds of sale are applied to the payment of the trustees' allowance for commissions, the costs of this suit, the claim of William O'Hara for poundage fees, as directed by the order of the 15th of December, 1828, on \$26,410, the appraised value of the personal estate taken in execution at seven and a half per cent. on \$26.67, and three per cent. on the residue. And on \$432.87, the balance, as real estate, at three-fourths per cent.; amounting to \$796.75; with \$7.26 costs of his petition; and the sums awarded to Philip G. Lechleitner, leaving an unappropriated balance of \$20,164.98. But although the whole of P. G. Lechleitner's claim, as adjusted

653 * by the award is allowed in said account; yet the auditor begs leave to suggest a doubt whether the claimant is entitled to any preference over other claimants as to the sum of seven hundred and fifty dollars, agreed and awarded to be paid to him for submitting to an arbitration of his claim.

This report of the auditor, as regards the claim of O'Hara, by an order of the 24th of June, 1831; and as regards the arbitrated claim of Lechleitner, by an order of the 22d of July, 1831, no cause having been shewn, although notice given, was finally ratified and confirmed; and the trustees directed to apply the proceeds accordingly.

The auditor, in a report bearing date on the 30th of January, 1832, says, that in obedience to the instructions of the solicitor of the Cape Sable Company, of Caton, and of Carroll, he had restated the claim of Philip G. Lechleitner. Adopting his former statement of said claim No. 16; he has credited the same by the amount of R. L. Colt's account for P. G. Lechleitner's notes mentioned in the resolve of the company of the 4th of February, 1822, and interest thereon from the 31st of December, 1821. And by the balance of the sum of \$17,000, borrowed under said resolve for said Lechleitner, to be used under his contract of the 25th of September, 1813. And by interest on said sum of \$17,000, from the 20th of February, 1822, to the day of sale.

The auditor has adopted the statement of said claim No. 16, because it was the more favorable statement for the parties who required his further account. And he has confined himself to the allowance of the credits before mentioned, because they were specifically required by his instructions; and because the exceptions filed by the defendants on the 14th of November, 1831, seem to admit, that in all others particulars, the auditor's statement of said claim is correct. The auditor retains the opinions which he expressed in his report of the 18th of February, 1830. And he does not clearly perceive, that the said claim can be credited with the