

being submitted, the counsel of the parties have been heard, and the proceedings read and considered.

That report, and the accounts accompanying it, purports to have been made in pursuance of the order of the 30th of October preceding, and as, in my opinion, it does conform therewith, and is supported by the evidence, it follows that the exceptions on both sides must be overruled, and the report confirmed.

The first exception of the complainant is to the charge against him of \$500, in the account F, with interest thereon from the 16th of August, 1849, which in the exception is spoken of as a supposed payment in relation to Heigham. It is not deemed necessary again to go over and restate the grounds upon which, in the former opinion of this Court, the propriety of the charge in question is vindicated. The argument now is, that in the cash account in the agent's ledger, there stood a balance to the credit of cash of \$562 39, and that consequently, even upon the hypothesis that the agent had improperly credited himself with the sum of \$500, the correction should be made by erasing said entry, or by a neutralizing entry on the debtor side of the account, and that, adopting either mode, there could still remain due to the complainant on the cash account, a balance of \$62 39. It is obvious, however, that this mode of getting rid of the charge, assumes the correctness of the entire cash account, which with the exception of the item of \$500, was not put in issue. The defendant, by the amended answer, specifically charged that the complainant was responsible for this sum of \$500, paid to the Farmers' Bank of Maryland under the circumstances therein detailed. The parties went to trial upon this specific allegation and none other. In no part of the pleadings was it pretended that this item of \$500 should not be debited to the complainant, because there stood a cash balance to his credit of a larger amount. If such defence had been set up by the pleadings, the entire cash account of the complainant would have been open for examination, and it is of course impossible to say to what results such an examination would have led. It has been several times