

sume, that he was entitled to the full amount of his poundage fees. Whereupon they prayed, that O'Hara might answer; and that they might have such relief as seemed right, &c.

BLAND, C., 27th April, 1829.—Upon this petition I must repeat what I have said on the petition of Philip G. Lechleitner, that the order of the 5th of November last, placed it in the power of all who had a right to oppose the claim of William O'Hara to do so on the day appointed. The matter of the foregoing petition, it is clear, might, then as now, have been offered as a cause why O'Hara's claim should not be allowed; but it was not then presented. This petition assigns no reason why this matter was not then introduced by the parties who might then have done so. Whether this suit was then to be contemplated as a creditor's bill or not; or, in whatever light O'Hara's claim may be considered, it is very clear, that it has been regularly put in issue, tried and adjudicated upon between him and those with whom, if at all, he contracted as is alleged, and of whom he had a right to make the demand. On a creditor's bill the originally suing * creditor's claim having been determined to be valid, as between **643** the then parties, can never be again questioned by any creditor who may thereafter come in; nor is there any instance in which a claim once established as between proper parties, can be again questioned by any one who may be thereafter allowed to come in and participate with either of the original litigants; unless upon some ground of alleged fraud and collusion. *Welch v. Stewart*, 2 *Bland*, 38.

Whereupon it is ordered, that the foregoing petition of George Neilson and others, be and the same is hereby dismissed with costs.

After which the auditor made and filed a report, dated on the 18th of February, 1830, in which he says, that he had examined the proceedings of these cases, and stated all the claims exhibited against the estate of the Cape Sable Company. Claim No. 1, is for a judgment recovered by Robert Oliver against the said company, on which a *fiery facias* was issued and laid on all the real and personal estate of the company. The complainants by their bil. of complaint impeached said judgment for fraud and irregularity. And by their exceptions, filed on the 20th of April, 1829, they object to the auditor's report of the 29th of February, 1828, so far as relates to the said claim, because there is no sufficient evidence to sustain the said claim, and because said Robert Oliver has no legal or equitable claim against the said company, or its funds or property; and because said Robert Oliver, if a creditor at all, is to be deemed a general creditor, and not a judgment creditor, nor entitled to any preference, as a creditor, whatsoever. And by other exceptions, filed on the same day, they deny, that