exceptions may be allowed.

Wm. J. Ross, Solicitor for Defendants.

And thereafter on the 30th day of April 1862 was filed in the cause aforesaid the following exceptions by Complainants, by their Solicitor to the Report of the Auditor No 2. viz:

Peter Williard, Wm. S. Hershperger Exors of Abraham Williard
vs
Hanson Ramsburg
Peter Young (of P) & others

No 2879 Equity

In the Circuit Court for Frederick County, sitting as a Court of Equity

Exceptions taken in this case by Jos. M. Palmer, Solicitor for Peter Williard & Wm. S. Hershperger vs. the Complainants to the account, reported by Grayson Eichelberger Esqr. the auditor marked Report No 2. made under the instructions of Solicitor for Defendants and dated on the 28th March 1862 for the following reasons.

1st Because the auditor has improperly allowed to Henry Keafauver claims No 4, No 5 - No 6, there not being a particle of evidence in the proceedings in this case to authorize any such allowance.

2d Because the auditor improperly allowed to Daniel Keafauver & Henry Keafauver claim No 7.

3d Because the auditor improperly allowed to Jacob Keafauver claim No 8.

4th Because the auditor has improperly allowed to George Keafauver claim No 9.

5th Because the auditor improperly allowed to Jacob Keafauver & Daniel Keafauver claim No 10.

6th Because the auditor has improperly allowed Hanson Ramsburg & Samuel Toms claim No 11. they not being entitled upon any principle, to any part of the money the proceeds of the ~~the~~ sale of the property in this case, the mortgage of the 21st of August 1858 from Peter Young (of P) so far as they are concerned is utterly null & void,

7th Because the auditor has not allowed to the said Peter Williard and William Hershperger, as the Executors of Abraham Williard deceased, all the surplus proceeds of the sale of the said real estate after satisfying the expenses of this suit and the admitted preferred claims &c. they being legally and equitably intitled to the same by virtue of the Mortgage of the 24th of August Eighteen hundred and fifty eight from the said Peter Young (of P) to the said Abraham Williard which is Exhibited in this case marked Exhibit A

8th Because the report of the auditor is erroneous and incorrect both in principle and detail in not allowing to the said Executors of Abraham Williard dec. the whole of the money, the proceeds of sale of said real estate after allowing preferred and all other expenses & costs in this case, and preferred claims as admitted in the case upon the mortgage of the 24th Aug. 58

exhibited in this case by Complainants marked A, it being the mortgage first recorded, and to have preference over the mortgage of the 21st August 1858, to the Defendants

9th Because the report of the auditor in allowing claims No 4, 5, 6, 7, 8, 9, 10, 11 should be rejected as erroneous the parties to whom they are allowed have not a particle of right or claim to any such allowance, under the mortgage of the 21st August 1858, as is fully shown by the proceedings in this case, therefore this exceptor prays the Court would satify and confirm the Report of the Auditor No 1 made in this case under the instructions of the Complainants Solicitor

Jos. M. Palmer, Sol. for Exceptors.

Whereupon, afterwards, to wit on the 30th day of May 1862, the following paper was filed in this cause; being an agreement by Counsel of the parties Complainants and Defendants: and the order of Ratification of Audit No 2 and rejection of Audit No 1 as follows.

Peter Williard & Wm. S. Hershperger Executors of Abraham Williard
vs
Hanson Ramsburg, Peter Young of P & others

No 2879 Equity
In the Circuit Court for Frederick County
In Equity:
May Term 1862.

We agree that the Court shall pass a pro forma order and decree ratifying the report of the Auditor in Audit Marked No 2. made under instructions of Solicitors for defendants and rejecting report of Auditor in Audit No 1 made under instructions of Solicitor for Complainants, with right of Appeal to Court of Appeals for the purpose of testing the questions involved in the case.

Jos. M. Palmer, Sol. for Compts.
Wm. J. Ross Solr. for Dan'l Keafauver & others

In No. 2879 Equity, Circuit Court for Frederick County:

Ordered by the Court this 30th day of May 1862, that under the preceding agreement, that the audit marked No 2 in this cause, and made under the instructions of Solicitors for defendants be and the same is hereby finally ratified and confirmed, the exceptions of the Solicitor for Complainants being overruled by this Court. It is further ordered that the exceptions of Solicitors of defendants to Audit No 1 made under instructions from Solicitor for Complainants be and are hereby sustained. It appearing to this Court that the order nisi for both audits have been duly published in the Frederick Examiner, a newspaper published in Frederick County according to the provisions of said order.

M. Nelson

Thereupon was filed in the said cause here, on the said 30th day of May 1862, the prayer of Appeal by the Complainants by their Solicitor, from the order, ordered by the Court here, to