

stances thus stated is, whether this party, the owner of claim No. 50, has been guilty of that kind of laches which, according to the practice of the Court, or upon equitable principles or considerations of convenience and expediency, debars him of the right to have his claim examined and decided upon its merits.

By the order of the 29th of October last, dismissing the petition filed on the 25th of that month, an opinion and judgment adverse to the petitioner was pronounced, but this was without argument on his part, and without that careful examination and consideration of all the circumstances attending this case, which I have since bestowed upon it. The order of the 31st of January last, ratifying the report of the Auditor of the 20th of October, 1851, having been rescinded, no judgment of the Court distributing the funds stands in the way, and the question now presented is precisely that which is spoken of in *Dixon vs. Dixon*, 1 *Maryland Ch. Decisions*, 271, that is, the creditor asks to be permitted to come in, with new proof of his claim, in the interval between the final report of the Auditor, made under the directions of the Court, and its ratification, within which period, though it is not matter of course to let the party in to offer further proof in support of his claim, he will be allowed to do so, under circumstances which would not entitle him to the privilege after the report has been ratified. The case of *Kent vs. O'Hara*, 7 *G. & J.*, 212, the decision of which I supposed at one time was conclusive against the present application, is not precisely like this. There the final report of the Auditor had been ratified by the Chancellor, and the application was to rescind the order of ratification, and permit the party to offer further proof of his claim. The application was refused in that case, though the Court there say: "That cases may sometimes occur, in which the rule not to open the account after final ratification, on the application of one whose claim had been first suspended and ultimately rejected, for want of proof to sustain it, might appear to operate harshly, and there may be cases in which it would and ought to be relaxed."

It is not necessary to decide here whether the general rule,