

reported. It is true, that the Court may be called upon, in the first instance, to decide upon all or one of the claims, which have been exhibited. This course is now, however, rarely or never taken, unless when there is supposed to exist some very unusual difficulty. When the case goes to the auditor, without any previous instructions from the Court, he admits into his account every claim that has been filed and properly authenticated, with all others which there is any plausible reason to believe may be, in any way, sustained by proof and allowed. *Field v. Holland*, 6 *Cran.* 26.

In making distribution of the proceeds of a deceased debtor's real estate among his creditors, this Court is directed by an Act of Assembly, 1785, ch. 80, s. 7, which in this respect is not at all affected by the testamentary system, 1798, ch. 101, to pay away the proceeds of the realty in the same order, that is to be observed by an executor or administrator in making payments out of the personalty.

It has always been the practice in this Court to require all claims to be proved before they are allowed either for the whole or admitted to a dividend, in the same manner as they would be required to be authenticated in order to be passed by an Orphans' Court; and therefore no claim, coming in under a creditors' bill, will be passed or allowed, which could not, according to law, be passed and allowed against the personal estate by an Orphans' Court. This was the practice long before the passage of the general testamentary Act; 1798, ch. 101; and has continued to be so ever since.

It has also been always a settled rule of this Court, and is one which has been affirmed by the Court of Appeals, that a judgment against an executor or administrator is of no avail against the **471** * heirs of the deceased debtor; not even so far as to prevent the operation of the Statute of Limitations. *Harwood v. Rawlings*, 4 *H. & J.* 126; *Duwall v. Green*, 4 *H. & J.* 270; *Mason v. Peter*, 1 *Mun.* 437. Therefore these judgments which have been obtained against the executor, cannot relieve these creditors from the necessity of producing the usual proofs of their claims. Their original causes of action, as they stood before these judgments were rendered, must be proved as against these heirs precisely as if no such judgments had ever been obtained.

And generally in other respects all claims must appear upon the face of them, *prima facie*, to be just and fair; and to have obtained or had assured to them, at the instance of the creditor, payment from no other person or fund. Unless a claim is thus authenticated, and upon the face of it clear, it will not be allowed, even although no objection should be made to it by any one interested. And consequently it has always been considered to be the duty of the auditor to notice, in his report, all objections of this description. The auditor has no right certainly to moot cases to the