* such proof as was admitted to sustain claims against deceased persons' estates. But, if the insolvent denied the **91**

---

just debts, would become inadequate, or the infants might be impoverished. The Chancellor has never thought it necessary, or indeed proper, in the case of any disputed claims against a deceased person, to send out an issue, or to refer the party to an action at law. Indeed it would be difficult, in most cases, to ascertain the proper parties for an issue. The executor or administrator surely would not be compelled, without being a party, to act as defendant on the trial of the issue. However, in all cases where a claim depends on a single fact, or facts, strongly litigated, and of difficult investigation, the Chancellor conceives, that in some manner an issue ought to be tried. For instance, a bond is exhibited with an affidavit of no payment, &c.; payment is alleged; but no receipt is produced; or if a receipt be produced, there is an allegation of forgery. In such a case, an issue may be sent out to be tried between the claimant and the party alleging; if the said party chooses to be considered as plaintiff on the trial of the issue.

In the present case, the claimant has filed an account with an affirmation of the truth of the account. The person taking the affirmation has not certified the affirmant to be a Quaker, Menonist, Tunker, Nicolite, or other person, entitled by law to have his affirmation to be on a footing with an affidavit by a common person. Of course, the affirmation is to stand for nothing.

The petitioner, Benjamin Morgan, has supposed the objection to his claim is, that his account is not regularly stated. He is mistaken. The objection is, that he has no proofs or vouchers to establish any claim against the deceased. He claims, as the representative of a partner with the deceased. He charges the deceased with all goods sent to him, and gives no credit, unless for remittances in money, or other things. The balance he considers as the sum to him due; or if he and the deceased were partners, he considers himself entitled to one-half of the balance. His account resembles little a partnership account. A and B are partners. A sends £10,000 worth of goods to B who remits to him £8,000. Can it be supposed, that merely from this, B owes £2,000 to the partnership; and of course owes £1,000 to B? No! The charges of the store are to be taken into the account. There may be losses of the articles, or they may have been sold for less than was expected: or they may have been sold for a great profit. In fact B was only to credit the company with the sale of the articles, and to charge every expense of storekeeping; and if there was a balance in favor of the partnership, that is to say, if, after deducting all expenses the sale of the goods amounted to not more than £10,000, it is impossible that B shall be in debt to A.

The claimant, Morgan, has, by his petition, requested the Chancellor, to instruct the auditor with respect to the mode of stating the account. What can the Chancellor do more, if he shall direct the auditor, than order him to state the account, as other accounts are stated? The auditor's objection to the account, was not merely as to the mode. The auditor was of opinion, that an account charging the goods sent to Sluby, and crediting him only with what he sent to Morgan, could not possibly be a just statement of a partnership account.

Morgan, by his petition, requests an order for the production of books in general. Perhaps the law, usage, or practice of this Court, respecting the production of books, is less understood, in general, than any part of the jurisdiction of this Court. The power of ordering books, has ever, as it