

debt, or there was any discrepancy between his schedule or admission and the creditor's claim, then the creditor was put to full proof. 1 *Er. Poth. Obl.* 409. But the Statute of Limitations was never considered as an objection to the payment of a claim, either in the case of a deceased person's estate, or in the case of insolvency, unless it was specially relied upon. The case now under consideration is substantially and in truth, a case of insolvency; not, indeed, referred to the Chancellor by any special Act of Assembly, but one which has been brought here by these proceedings, and in due course of law; and, therefore, the assets now here will be distributed upon such principles and proof as have been applied and required in similar cases, where no objection to the claim has been made.

But the originally suing creditors have objected, that the claims of the other creditors, who have come in since the institution of the suit, are not sufficiently sustained by proof; they have also objected that those claims are barred by the Statute of Limitations; and their reliance on the statute was made, and sent with the reference of the case to the auditor. The reply to these objections, in argument, is, that they are such as can only be made by one or other, or both of the defendants; and not by a creditor or co-plaintiff.

The debtor or his heir, has so manifest an interest in the real estate which it is proposed, in cases of this sort, to subject to the

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ought to be, been exercised with great caution. No instance can be shewn, where a man has been considered as entitled to the production of private books, in which he has not an interest. And in all cases where books have been ordered to be produced, the particular books have been specified; and the Court has been first satisfied of the necessity of producing them. But, in no instance has a man, who is not a party to a suit, been compelled to produce private books. Is it conceivable, that Morgan, exhibiting a claim against Sluby, in a summary way, without filing a bill against any person whatever, is entitled to an order against every person whom he alleges to have in his possession certain books which may throw light on the subject? Suppose an order on A. B. to produce books, without any specification, and the order not complied with, by producing any books whatever. Is A. B. instantly liable to attachment? It would be ridiculous to suppose it. The fact is, that no man has a right to the production of another's books; and every man may do as he pleases with his own books. Each partner, indeed, is entitled to the benefit of all books kept by the partnership. But then the person in whose possession they are, must, in some way, be made a party to a suit, before they can be ordered to be produced.

It appears to the Chancellor, that the utmost he can grant to Benjamin Morgan, is further time for establishing his claim; and that the Chancellor cannot, in this case, with propriety, for the reasons herein assigned, direct any issue, or issues to be tried. It is, on the whole, ordered in the presence, or with the assent of Morgan's solicitor, that he be allowed until the first day of July next, to produce his vouchers, and have his account against Sluby, (if any just account he hath,) stated by the auditor of this Court.