

**93** \* be conceded on all hands, that these originally suing creditors have an interest in these real assets; but, yet it is urged, that they cannot make such objections as those against the claims of their fellow creditors. This matter must be determined by practice, on principle, and on authority.

The defendants, or the representatives of deceased debtors, are generally, from strong motives of interest, so very active in their opposition to all and each of the creditors, where opposition can avail, that they rarely leave any thing to be said or done by any one else; and hence, it would seem, from the practice of the Court, that they were the only persons who had any right to urge such objections. It is obvious, therefore, that the main current of the practice here is not likely to be very fruitful of information on this subject.

There is a class of creditors' bills common in England, but of rare occurrence here, which will cast light upon this matter. Bills are often brought here by one creditor in behalf of himself and others, against executors to obtain payment, and to have the assets brought in and administered under the directions of the Court of Chancery. 1 *Mad. Chan.* 578. In such cases the executor is not bound to plead the Statute of Limitations; and if he does not, the creditors will have a decree, and be paid. But it is the constant course, in the master's office, to take the objections against other creditors, and to exclude from distribution those, who, if legal objections are brought forward, cannot make their claims effectual. So too, in cases of bankruptcy—if the bankrupt waives any objection, it may still be made by the creditors; and the reason of this is, that the creditors have a direct and manifest interest in the funds, and that it should satisfy their whole claims respectively. If each of them was not permitted to make these objections, they would be left at the mercy of those, for a full defence, who, in all cases, where the fund is not more than enough to pay all the debts, have no interest in excluding any one from partaking, to their prejudice, in the distribution, however ill-founded his claim may be. And besides, such proceedings in Chancery, are only to be considered as other modes of compelling payment; and the Chancellor is understood, in the distribution, to govern himself as to legal debts by the rules of law: and as to equitable debts, by the rules of equity, regarding the claim of each creditor as a suit depending; and hence, if the \* executor or bankrupt fails to object

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same time. The bill in this cause was filed on 23d October, 1815, more than twenty-five years after the bond; which was made payable forthwith. A sufficient length of time has elapsed to presume payment. Nor is there any evidence in the cause to remove the presumption. The exception taken to the claim No. 3, is therefore supported, and the claim is hereby rejected. The auditor is directed to re-state the account, rejecting the said claim.