

Even if the insufficiency of the personalty be to some extent admitted or established, still the creditors may be notified to bring in their claims, in order to ascertain what proportion of the realty must be sold.

If the personalty be shown to be sufficient, the suit may thenceforward be confined to the administration thereof.

If the insufficiency of the personalty be established, it is customary to decree a sale of the realty immediately, without setting the case down for final hearing. (*f*)

A decree for a sale establishes the validity of some claim of a creditor, and the insufficiency of the personalty, and those matters are no longer open to question by the immediate parties. (*g*)

No creditor who comes in under such decree can be allowed to impeach it, except on the ground of fraud, or because it makes an injurious and illegal disposition of the property.

A decree for a sale virtually takes possession of the property, and vests it in the Court for distribution.

After the Court has, by a decree, assumed the administration of the assets, creditors may be prevented, by injunction, from proceeding in other cases. (*h*)

And the executor will not be permitted, at his pleasure, to apply the assets in satisfaction of any particular claim.

How creditors and next of kin are to be notified; and how, and within what time, they may be allowed to come in.

At any time before the fund has been actually parted with by the Court, new claimants may be allowed to come in and participate. (*i*)

If the surplus has been paid away to the next of kin, &c., they may, in some cases, be compelled to restore to the new claimant.

But if the whole estate has been paid to creditors, they cannot be made to refund, and new creditors coming in take nothing by their application.

The usual way for a creditor to come in is by merely filing the voucher of his claim, with an affidavit annexed such as is required for authenticating a similar claim in the Orphans' Court.

A claim may be contested by a plaintiff, a defendant, or any one who has been allowed to come in.

The Statute of Limitations may be relied on by any one who has an interest in pleading it.

A creditor having a lien, although he cannot be compelled to come in under the usual notice, may be made a party so as to have his incumbrance cleared away for the benefit of the other creditors. (*k*)

The mode of making distribution; on what amount; and the nature of priorities.

(*f*) Approved in *Brown v. Wallace*, *post*, 598. See Rev. Code, Art. 66, sec. 4.

(*g*) Approved in *Rhodes v. Amsinck*, 38 Md. 352. See *Strike's Case*, 1 Bland, 57, note (*b*); *Welch v. Stewart*, *ante*, 38.

(*h*) Cited in *Boyd v. Harris*, 1 Md. Ch. 471. Cf. *Bowen v. Gent*, 54 Md. 555.

(*i*) Cited in *Ohio Trust Co. v. Winn*, 4 Md. Ch. 263. See *Townshend v. Duncan*, *ante*, 45.

(*k*) Cited in *Tessier v. Wyse*, 3 Bland, 36.