

to which these plaintiffs are so entitled as trustees; it is ordered, that this case be, and the same is hereby referred to the auditor, with directions to state an account accordingly, from the pleadings and proofs now in the case, and from such other proof as may be laid before him. And the parties are hereby authorized to take testimony in relation to the said account of the rents and profits before any justice of the peace, on giving three days notice as usual, provided, that the said testimony be returned and filed in the Chancery office, within twenty days after the day on which the trustee, John Scott, shall have made and filed his report of the sale of the said property.

And it is further decreed, that the said report of the auditor filed on the 13th of March, 1827, so far as the same is in any manner at variance with this decree, be, and the same is hereby set aside and rejected; and the residue thereof is hereby affirmed.

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* WELCH v. STEWART.

CREDITORS' SUIT.—LIMITATIONS.

In a creditors' suit, the decree for a sale establishes the plaintiff's claim; unless it be otherwise declared; except as regards a fraud not put in issue and decided on by such decree. (a)

A plaintiff cannot be permitted to split up and multiply his causes of action; and therefore, if he knowingly withholds a part of his claim until after the decree for a sale, it will be rejected; but without prejudice. (b)

In a creditor's suit the Statute of Limitations continues to run against a creditor who comes in, before or under the decree, until he files his petition or the voucher of his claim; but no one can rely on the statute against a claim, after any act done, or sanctioned by him, which implies an abandonment of such a defence, or that the claim is to be met upon its merits. (c)

THIS bill was filed on the 2nd of August, 1827, by Robert Welch, of Ben. and others, as creditors of David Stewart, deceased, against Henry H. Stewart and others, the administrator, heirs and legal representatives of the late David Stewart. The bill sets forth, that the late David Stewart was indebted to several persons in the manner described, to which claims the plaintiff Welch had become entitled; that the deceased debtor had, in his life-time, conveyed certain property in trust for the benefit of the creditors named in

(a) Approved in *Rhodes v. Amsinck*, 38 Md. 351. As to creditor's suits generally, see *Hammond v. Hammond*, post, 306.

(b) Cited in *Gibbs v. Cunningham*, 4 Md. Ch. 325.

(c) Approved in *Williams v. Banks*, 19 Md. 36; *Brendel v. Strobel*, 25 Md. 400; *Hall v. Ridgely*, 33 Md. 310; *Young v. Mackall*, 3 Md. Ch. 409. See *Hammond v. Hammond*, post, 306.