

**344** \*granted to infants, of allowing the parol to demur until they attained their full age, has been totally abolished as regards creditors' suits in equity; *Boucher v. Bradford*, ante, 222; since the Chancellor has been thereby directed, on the indebtedness of the deceased ancestor or deviser being established, and the insufficiency of his personalty being made to appear, to cause his real estate to be sold and conveyed by a trustee to

claim, supposing even that there were enough to pay all the creditors of Edward, the father of Solomon, the son.

The trustee now comes, and applies to the Chancellor, anxious to discharge himself of the money, and to complete his trust; and under all circumstances the Chancellor thinks proper to have the business closed with as little further delay as consistently may be.

It is Ordered, that the auditor state an account dividing in due proportion to the amount of their claims, amongst Edward Harris and his sister Mary Airey, and Messrs. Hemsley and Tilghman the money arising from the sale, after deducting the costs of suit, and the trustee's commission of £112 10s. in which is included near £30, for surveying, advertising, &c. and the expense of several necessary journeys or voyages; and deducting too £45 paid to Ringgold in part of his claim. Dr. Harris and sister to be allowed for one-third of their claim. Hemsley and Tilghman, for their whole claim. Hindman to be allowed only for his claim as representative of James Anderson.

N. B.—Inasmuch as it was plainly the fault of the said claimants in not shewing their title to preference, that £45, which was less than one-half of his claim, was paid to Ringgold, the Chancellor conceives it just, that the loss of the said sum should be proportionably borne amongst them. Had it not been for the preferences, it is certain, that each claimant would have drawn one-half of his claim; and as dividends would have been struck before the payment to Ringgold, had not vouchers been wanting in some cases, and the precise amount of some claims uncertain. The Chancellor thought it improper to let the money lie useless; as would have been the case, if the claim of Harris and Airey had not been exhibited soon after the preference claimed. It was indeed fortunate that a proportionable sum was not paid to each proper creditor of Solomon Clayton. Whether or not, the money can be recovered from Ringgold, the Chancellor will not give his opinion.

In obedience to this order, the auditor made and reported a statement distributing the proceeds accordingly; upon which the case was again brought before the Court.

HANSON, C., 14th March, 1805.—Ordered, that the money arising from the sale; great part whereof hath been long in the trustee's hands ready to be paid, be, and it is hereby directed to be applied according to the above statement; and that the receipts in writing of any person entitled to receive the said money, be admitted here in the place of so much money; and that, under the circumstances of the case, the trustee Peter Edmondson, be not answerable for any interest which he had not received from a purchaser. Provided nevertheless, that he without reasonable delay either deposit the said principal money in Court, or receipts in writing as aforesaid for money already paid, or to be paid agreeably to the foregoing statement.