tors of the deceased, then the suit may, thenceforward, be confined to the administration of the personal estate alone, continuing the personal representatives only as defendants, and dismissing the bill as against the heirs. But, it is the habit of the Court, where the insufficiency of the personal estate is admitted or shewn, and it thus foresees that the real estate must be sold, to decree a sale of it immediately without setting the case down for final hearing. *Holme* v. *Stanley*, 8 *Ves.* 1; *Lloyd* v. *Johnes*, 9 *Ves.* 65; *Birch* v. *Glover*, 4 *Mad.* 376; *Kilty* v. *Brown*, *ante*. 222; *Boucher* v. *Bradford*, *ante*, 222; *Tyson* v. *Hollingsworth*, *ante*, 327; 1835, ch. 380, s. 1; *Chamberlain* v. *Brown*, *ante*, 221.

The establishment of some claim of a creditor, and the insufficiency of the personal estate to discharge the debt due by the deceased, thus shewn, or not denied by the heirs, being the foundation on which a decree for a sale of the realty must rest; and without which, it could not have been passed, such a decree, therefore, necessarily establishes the validity of such claim, and the insufficiency of the personalty, without leaving those matters open to any further question by any of the immediate parties to it. *Mackubin* v. *Brown*, 1 *Bland*, 415. And as the coming in, under such decree, implies a submission to it, no creditor, who thus comes in, can be allowed to impeach it; except on the ground of fraud among the original parties to it; and in so far as it injuriously affects his interests, by making a wrong disposition of the property. *Giffard* v. *Hort*, 1 *Scho. & Lefr.* 409. If a part only of the claim of the plaintiff be sustained, the decree should specify what part has been established; and how much has been finally rejected, or is to be allowed to stand over to be again brought forward, upon further proof, with the claims of other creditors; but if no such specification be made, then it must be assumed, that the decree has finally established the validity of all the claims of the several

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the same were, by the Chancellor, read; and it appears that, although there is a regular answer of the infant defendants Eleanor and Samuel, by their guardian, admitting the facts stated in the bill, there is no regular answer on the part of the other defendants. However, that there may be as little further delay as possible, the Chancellor thinks proper to pass immediately that order which is required by law, before a mortgagee can obtain a decree for a sale against infant defendants, heirs of a mortgagor.

It is thereupon Ordered, that in case the aforesaid facts shall be admitted by the answers of all the defendants, or otherwise established to the Chancellor's satisfaction, he will pass a decree for the sale of the mortgaged lands in the bill mentioned, for the payment of the mortgage debt; provided the complainant shall first file with the register of this Court a bond to the infant defendants Eleanor Clarke and Samuel Clarke, with good and sufficient surety, approved by the Chancellor, in the penalty of £400, with the following condition, &c. (This bond was required by 1785, ch. 72, s. 2, but it has been since declared that it shall not be necessary or required, 1837, ch. 292.)