

and actually paid over to the creditors of the deceased, or in so far as it had been so actually paid away, then, as such creditors cannot be made to refund, claimants of, and under the deceased debtor, who may thereafter come in, can take nothing by their application; not upon the ground, that their claims are without foundation; but because by their negligence they have lost all means of relief. *Locthan v. Hasel*, 4 Bro. C. C. 168; *Hindman v. Clayton*, ante, 337; 1798, ch. 101, sub-ch. 8, s. 13.

A publication warning all claimants, unknown to the Court, to come in and file the vouchers of their claims against the estate, is a constructive notice, upon which it is presumed to be safe to proceed to make a distribution of it among all those who then, after such notice, shall have come in and made claim. That, however, cannot apply to a legatee, or any other claimant who then fails to come in and assert his right, but whose title appears upon the face of the proceeding; and who must, therefore, have a proportional share of the fund set apart for his satisfaction. *Good v. Blewitt*, 19 Ves. 338; *Waite v. Temple*, 1 Cond. Cha. Rep. 162; *Anonymous*, 4 Exch. Rep. 72.

Should a claimant find it necessary, for any purpose advantageous to himself, to introduce any matter, not apparent upon the face of the voucher of his claim, he may be permitted to do so by petition; or if the relief he seeks cannot be so obtained he may file a cross-bill. *Latouche v. Dunsany*, 1 Scho. & Lefr. 149; *Strike's Case*, 1 Bland, 85. But the most usual way for a creditor to come in is by merely filing the voucher of his claim with such an affidavit * annexed as is required for authenticating such a claim in the **366** Orphans' Court. 1798, ch. 101, sub-ch. 9. The meaning of which practice is, that a person should not come here, and claim a debt without giving that assurance, that it is due, which arises from his affidavit; which also, if the debt be contested, affords a protection against the conclusion from other evidence, that it is due, when the contrary may be within the knowledge of the party himself; *Fladong v. Winter*, 19 Ves. 199; and moreover, because of its being proper to follow the rule prescribed for the Orphans' Court, under similar circumstances, in order that there may be a consistency in the administration of justice. But if the claim be contested, as it may, by a plaintiff, a defendant, or any one who has been allowed to come in, and whose interest may be affected by it, no attention is to be given to the affidavit, the claim must be established by full proof as on issue joined before a jury; or it will be rejected. The admission of, or even a judgment against an executor or administrator can be of no avail against the heir or devisee. *Putnam v. Bates*, 3 Cond. Cha. Rep. 355; *Dorsey v. Hammond*, 1 Bland, 470. And if all the original parties to the suit should waive the Statute of Limitations, still it may be relied on by any one who comes in, and may have an interest to protect by