

had; and then on the 10th of December, 1819, a plea of the Statute of Limitations was filed and relied on. It was held, that

payment of the balance, if any was due; which from the length of time furnishes a strong presumption that no balance was due; and she pleads and relies on the length of time as a bar to the said claim. 2d. That a suit is now pending in Prince George's County Court, against the said Sarah Brookes as executrix of Benjamin Brookes for the same claim, to which she has pleaded the Act of Limitations, and which has been laid before the auditor, under the Act of 1785, ch. 80, and is not yet reported on, which she is ready to make appear; and 3d, That the probate of H. West, the executrix is not sufficient, and not such as the law requires.

HANSON, C., 27th May, 1803.—Ordered, that the Chancellor, on application, at any time after the first day of October next, will proceed to decide on the claim of Stephen West's executor against Benjamin Brookes deceased; provided a copy of this order be served on Hannah West, or Richard Ridgely, her solicitor, in case she cannot conveniently be therewith served, before the first day of July next. Ordered likewise, that depositions taken before a single magistrate, on two days notice, in case it can conveniently be served, or without notice, in case it cannot be so served, shall be received as evidence on the trial of the said claim.

After which the case was again brought before the Court as to other claims.

HANSON, C., 18th July, 1803.—Let the auditor state the proportions which each creditor of Benjamin Brookes is entitled to of the money arising from the sale of the real estate of said Brookes, deducting the commission of £75, and costs of suit, the State being entitled to a preference. He is to state the proportion of Stephen West, although his claim is disputed; the object of stating the proportions being, that an order may be passed for paying each claimant, except the said West, immediately. The said West's claim is, agreeably to the order of 27th May, 1803, to be decided on after the first day of October next.

After which the case was again called up for hearing upon the exceptions.

HANSON, C., 12th October, 1803.—The Chancellor having appointed this day for deciding on the claims of Benjamin Oden, and of Stephen West's executrix against the estate of Benjamin Brookes deceased, and the counsel on each side having submitted the questions without argument, the Chancellor proceeded to examine the papers and vouchers relative to the said claim.

There appears no reason wherefore the Chancellor should differ from the auditor relative to West's claim. It is therefore wholly rejected. As to the claim of Oden, nothing appears wanted except his affidavit. The opposite counsel, however, Mr. William Kilty, being in Court, and expressing his approbation of and assent to the said claim; it is allowed to be good. Let the auditor of this Court make a statement accordingly of the moneys reserved on account of the rejected claims.

The auditor afterwards made and reported a statement accordingly, shewing a surplus to be paid to the heirs of Benjamin Brookes, which statement was, on the 21st of October, 1803, approved, and the proceeds directed to be applied accordingly.