Garnet, William Clayton and Nathan Wright all insolvent? Was one of them solvent, and the others not? Have any steps been taken to recover from them? It is certain, perhaps, that they are now protected by the Act of Limitations; but is this a reason wherefore Clayton's estate is to be charged with the whole?" *Hindman* v. *Clayton*, *ante*, 341.

During the whole time of Chancellor KILTY, these principles appear to have been continually recognized as the settled law of the Court; and in one case of a creditor's suit, where he himself was the originally suing creditor, he evidently acquiesced under them, although they were opposed to his own interest; and asked a decision from the Judge, to whom his case was necessarily submitted, founded upon their admitted correctness and established authority. *Kilty* v. *Brown*, *ante*, 222. But although they appear to have been so repeatedly recognized by Chancellor KILTY, yet I have met with no case, in which he has given any reasons by which he had conceived they might be sustained.

Chancellor JOHNSON, in an order passed on the 10th of April, 1822, in a creditor's suit, addressing himself immediately to this subject, says, "the complainants except to that part of the auditor's *report unfavorable to the claim of Nicholas Hammond, which claim is founded on a bond executed by one John Mace and William Frazier, the above deceased, as security. The auditor, in conformity with the usual course of the Court, would not allow the claim without evidence, to establish the allegation in the bill, that Mace, the principal debtor, was insolvent. A Court of equity, when it interposes and adjusts the relative obligations of contracts and agreements, in which more than two parties are concerned, calls them all before the Court; that a complete and final adjustment may take place, and each be compelled to pay his just portion; and thereby, the creditor draws from each, being solvent, what equitably ought finally to be drawn from him. It will not compel the one, both of the debtors being solvent, to pay the whole, and turn him over to his co-security to restore one-half. When, therefore, estates are sold to pay debts; and in which the interests of minors are generally deeply involved, it becomes the duty of the Court to see that no claim be allowed, in which the deceased, with others, stands indebted, without satisfactory proof being produced, that the other persons joined in the obligation, were insolvent. But as that proof is now produced in support of the claim No. 4, the same is hereby allowed." *Edmondson* v. *Frazier*, 1 *Bland*, 92.

518

From these adjudications it appears, that the first position taken in support of these principles, in relation to the administration of the real assets of the deceased debtor, is, that this Court may, in its discretion, withhold from the creditor, the relief he asks, alto-