

PRACTICE IN CHANCERY—*Continued.*

25. In equity as at law, parties are required to use due and reasonable diligence, and they will not be permitted to unsay at a future time what they have not only once said, but sworn to. *Ib.*
26. Upon a supplemental bill, in the nature of a bill of review, the question always is, not what the plaintiff knew, but what, using due diligence, he might have known. *Ib.*
27. Where a fund is in court for distribution among creditors, the practice of the court is to allow creditors to come in at any time before a distribution has been actually made. *Ohio Life Ins. and Trust Co. vs. Winn & Ross*, 253.
28. So long as the fund is under the control of the court, it will let a creditor in who has been guilty of no negligence, and if necessary send the case to the Auditor to have a new account stated at his expense, notwithstanding notice to creditors has been duly given. *Ib.*
29. But where a creditor has been notified, and a reasonable time allowed him to support his claim by proof, and he fails to do so, an account rejecting his claim, if ratified, will not be opened at his instance to allow him to produce further proof, though the fund is still in the hands of the trustee. *Ib.*
30. Where an order has been passed directing the Auditor to state a *final account*, still, if the fund has not been parted with by the court, creditors who had not come in at the period of the passage of such order will be allowed to do so, but new proof will not, after such order, be allowed in support of claims already filed. *Ib.*
31. After an appeal is taken, and an appeal bond executed and approved, no step in the cause can be taken which by any *possible contingency* can prejudice the appellant. *Ib.*
32. It is an established rule of the Chancery Court that the statute of limitations runs against a claim or debt down to the time it is exhibited. *Ib.*
33. An order distributing a fund among a certain class of creditors and excluding others, was appealed from by one of the parties whose claim had been admitted to a dividend, but those excluded did not appeal. **HELD—**
That after such appeal taken and bond given, the court cannot order the dividend allowed to one of the creditors not appealing to be paid to him. *Ib.*
34. The court has the power to direct a fund in court to be invested pending an appeal, notwithstanding some of the parties interested in the fund may refuse their assent to such investment. *Ib.*
35. The answer of an infant by his guardian is not evidence against him, and the necessity of establishing the case as stated in the pleadings by proof is not obviated by making the infant a plaintiff. *Benson vs. Wright et al*, 278.
36. Where a creditor omitted to furnish proof of his claim in due time, having acted upon information derived from the receiver that his