

The peculiar and complex nature of the duties of a chancellor, 678.

This court cannot order money in the hands of a sheriff or officer of another court to be brought into this court.—*Jones v. Jones*, 461.

CREDITOR'S SUIT.

Under a bill against the heirs of a mortgagor, or for the sale of a deceased's real estate to effect a division, the creditors of the ancestor may come in against such realty on the ground of the insufficiency of the personalty.—*Lattimer v. Hanson*, 52; *O'Brien v. Bennet*, 86; *Fenwick v. Laughlin*, 475; *Spurrer v. Spurrer*, 475.

Where a decree for a sale expressly or tacitly affirms the validity of the plaintiff's claim, the allowance of interest upon it is a subject of further directions.—*Strike's case*, 70.

It is most usual in the decree for a sale itself to direct the trustee to give notice to creditors to bring in their claims, every thing in relation to which is the subject of further directions, 71.

It is not indispensably necessary that the bill should state, that the plaintiff sues as well for himself as others, it is sufficient that such appears to be the object of the suit, 84.

A creditor may be let in by petition either before or after the decree, but the most usual way is for creditors to come in by filing the vouchers of their claims, 85.

If a creditor comes in after a distribution has been awarded by the auditor, he must pay the costs of the necessary reaudit; but he can't be let in after a final account has been ratified, 86; *Williamson v. Wilson*, 441; *Dorsey v. Hammond*, 468.

After the claim of a creditor has been contested upon hearing, the heir cannot plead or rely on the statute of limitations in bar of it.—*McMechen v. Chase*, 85.

The creditors may be called in before a decree so as to ascertain what amount must be raised by a sale.—*Corrie v. Clarke*, 85.

Where an executor had paid away all the personalty and had nothing to answer pending suits against him, he was permitted to have the creditors called in to partake of a surplus of a mortgaged estate in a suit instituted by him and others as representatives of the deceased.—*O'Brian v. Bennet*, 86.

Claims in a creditor's suit may be paid if authenticated in the same manner as required in the orphans court.—*Strike's case*, 88; *Dorsey v. Hammond*, 470.

Creditors' suits founded on insolvency are governed by the same rules as those against the representatives of a deceased

debtor—the schedule evidence; but if any discrepancy, then full proof may be required.—*Strike's case*, 90.

If the statute of limitations be not in some form specially relied on against a claim it cannot be taken advantage of, 90.

The statute of limitations in bar of a claim brought in under the decree, may be relied on by any one of the original parties or by a co-creditor, 93.

Where it appears by the voucher, that the deceased was surety with others, the creditor must also shew that the principal and co-security are insolvent.—*Edmondson v. Frazier*, 92; *Dorsey v. Hammond*, 472.

What may be deemed sufficient evidence of the insolvency of the principal or co-security.—*Spurrer v. Spurrer*, 477.

The mere filing of the schedule of an insolvent cannot be treated as a coming in of all the creditors therein named.—*Strike's case*, 96.

Where a testator devises a portion of his real and personal estate subject to the payment of a particular debt, which the devisee taking under the will, fails to pay, the executor of the devisor may compel the devisee to pay in order to save the personalty of the devisor.—*Pue v. Dorsey*, 139.

If, in such case, the devisee is dead leaving an infant heir, and his personal estate has been exhausted, the court will by decree appoint a trustee to make sale of the realty so charged, 138.

A creditor having an equitable lien cannot by the usual notice be compelled to come in under the decree, but if he does come in then the purchaser will take clear of his claim.—*Miller v. Baker*, 148.

The decree for a sale being founded on the fact of the insufficiency of the personal estate establishes that point, so that the administrator's accounts cannot be impeached for the purpose of turning a creditor over against the personalty.—*Mackubin v. Brown*, 414, 415.

If the creditors were infants they may be let in on applying soon after they attain full age, even although notice has been given to creditors and a final distribution has been made, 415.

A suit brought by one partner against the other to prevent a misapplication of the partnership effects, alleging the firm to be insolvent; on that allegation being admitted or proved, the suit must thenceforth be treated as a creditors' suit.—*Williamson v. Wilson*, 430.

A suit by a creditor against trustees to whom the debtor had conveyed his property for the benefit of his creditors, treated as a creditors' suit.—*Barnaby v. Hollingsworth*, 431.

Creditors coming in may be ordered to