

the course has been for the creditors to come in by filing the vouchers of their claims, in the Chancery office; and this may be regarded as the present well established practice of this court. In this form a creditor may come in at any time before a distribution of the proceeds of the sale has been actually made; and before a final audit has been ordered and ratified; but if the auditor had previously made a statement, the cost of the restatement must be borne exclusively by such new applicant.(e)

respective claims, with the vouchers thereof, on or before the 16th day of August next, to the intent, that there may be ascertained the sum necessary to be raised by a sale of the real estate of the deceased for the payment of his just debts.

After which the case came on for a final hearing.

4th January, 1803.—HANSON, *Chancellor*.—The complainants' claim against the said Parrott Clarke, deceased, being established to the satisfaction of the Chancellor; and it appearing, that the personal estate of the said Parrott Clarke is insufficient for the payment of his debts—*decreed*, that the lands be sold, &c.

A sale of the real estate was made, reported, and finally ratified accordingly. A commission had been issued in the usual form, to appoint a guardian to the infant defendants, and such a guardian had been appointed accordingly, who answered for them.

23d August, 1803.—HANSON, *Chancellor*.—Ordered, that the principal money, arising from the sale of the estate of Parrott Clarke, deceased, be applied agreeably to the auditor's statement of the 12th instant; and, that whatever interest is paid by the purchaser shall be divided, in due proportion, amongst the persons entitled to the principal. But, inasmuch as the Chancellor knows not whether the heirs of said Clarke are of years of discretion, or have a guardian to their persons and estate, the balance of £143 2s. 1d., must be subject to the Chancellor's future order.

(e) *Angell v. Haddon*, 1 Mad. Rep. 528; 2 Fow. Ex. Pra. 254; *Davies v. Stewart*, per Johnson, Chancellor, 17th February, 1823.

O'BRIAN v. BENNET.—This bill was filed by O'Brian and wife on the 18th of June, 1800; by which it appears, that the defendant Pouder, being seized in fee simple of a lot of ground in Baltimore, sold it to Francis Caskey for £687 10s., and gave Caskey his bond to convey it to him when he paid the whole purchase money; that Caskey paid £337 10s. in part; that afterwards he mortgaged his interest for a certain sum of money to the defendant Patrick Bennet; after which Caskey devised his interest to Martha, one of the plaintiffs; and died. And then the defendant Pouder conveyed all his right to the defendant Bennet—that Bennet holds possession and refuses to convey, or to suffer the plaintiffs to redeem. Prayer for general relief, &c.

On the 27th January, 1802, a decree was passed, by consent, for a sale in the common form. The amount due Bennet, was also agreed by writing, dated 8th October, 1801. A sale was made and reported accordingly, which, by an order of the 19th of May, 1802, was at once absolutely ratified, the persons concerned having expressed their approbation thereof—that is, the plaintiffs and defendants.

The property having sold for more than enough to satisfy the claims of the defendants, the plaintiff Charles O'Brian, by his petition, stated, that he having been appointed the executor of Charles Caskey, as set forth in the bill, had obtained letters testamentary; that the personal estate of Caskey was exhausted; that he had been