

annexed as is required for authenticating such a claim in the Orphans Court. (t) The meaning of which practice is, that a person should not come here, and claim a debt without giving that assurance, that it is due, which arises from his affidavit; which also, if the debt be contested, affords a protection against the conclusion from other evidence, that it is due, when the contrary may be within the knowledge of the party himself; (u) and moreover, because of its being proper to follow the rule prescribed for the Orphans Court, under similar circumstances, in order that there may be a consistency in the administration of justice. But if the claim be contested, as it may, by a plaintiff, a defendant, or any one who has been allowed to come in, and whose interest may be affected by it, no attention is to be given to the affidavit, the claim must be established by full proof as on issue joined before a jury; or it will be rejected. The admission of, or even a judgment against an executor or administrator can be of no avail against the heir or devisee. (w) And if all the original parties to the suit should waive the statute of limitations, still it may be relied on by any one who comes in, and may have an interest to protect by relying on the statute. (x)

In general no claim can be considered as a debt due by the deceased; and, as such, entitled to be paid out of his estate, but that which he owed at the time of his death, and was then, or thereafter payable; and the balance only of such a claim, for which the deceased was then liable, is the amount to be satisfied in whole, or in due proportion. (y) Where the assets are sufficient to pay all the creditors of the deceased; or where there is an ample solvent fund, it cannot be necessary to attend to the order in which the debts are satisfied, or to adjust any apportionment among them; since nothing can be awarded to the next of kin or legatees, heirs or devisees of the deceased, or to the debtor himself until all his creditors have been satisfied to the full amount of their respective claims, principal and interest; for if a creditor is entitled to any interest it is as much a debt as the capital itself. (z)

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(t) 1793, ch. 101, sub ch. 9.—(u) *Fladong v. Winter*, 19 Ves. 199.—(w) *Putnam v. Bates*, 3 Cond. Cha. Rep. 355; *Dorsey v. Hammond*, 1 Bland, 470.—(x) *Shewen v. Vanderhorst*, 4 Cond. Cha. Rep. 458; S. C. 6 Cond. Cha. Rep. 403; *Strike's Case*, 1 Bland, 91.—(y) As to annuities, *William's Case*, post. 3 vol.—(z) *Bromley v. Goodere*, 1 Atk. 75; *Rowe v. Bant*, 1 Dick. 150; *Lloyd v. Williams*, 2 Atk. 111; *Ex parte Morris*, 3 Bro. C. C. 79; *Ex parte Champion*, 3 Bro. C. C. 436; *Ex parte Mills*, 2 Ves. jun. 295; *Ex parte Clarke*, 4 Ves. 677; *Ex parte Reeve*, 9 Ves.