ence to this subject, in an order passed on the 20th of March, 1800, he says, 'there is no proof relative to the circumstances of *George Garnet*, or the two other securities, *William Clayton* and *Nathan Wright*. When claims are exhibited against an infant's estate, and it appears that the debt was due from the deceased and another, or others jointly, it has been the Chancellor's uniform practice to allow only the just proportion to come out of the infant's estate. The practice is founded on this consideration, that, on an application by creditors, for the sale of an infant's estate, it is a matter of sound discretion, whether or not the Chancellor will decree a sale. He is governed by circumstances. In case of a debt due from the ancestor or devisor jointly with another who is solvent, the Chancellor might say I will not decree a sale, or I will not suffer you to receive your debt from the infant's estate, because you have it in your power, or had it in your power, since the ancestor's or devisor's death, to recover your whole claim from the other debtor. But the Chancellor conceived, that to avoid circuity of action, and do justice to all, it was proper to charge the infant only his just proportion; or to admit the claim against the estate for only a just proportion, Were *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?' (*d*)

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. (*e*) 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

(*d*) Hindman *v.* Clayton, ante 341.—(*e*) Kilty *v.* Brown, ante 222.