

as well under the peculiar circumstances, in the life-time as after the death of the debtor. (o) A mere bounty of the testator enables the

But, in respect to the claim of the plaintiff McCormick, founded as regards the whole real estate of the deceased debtor, on a promissory note for \$2,500; and, as such, being an apparently indivisible cause of suit, it has been finally determined, that the pleas of limitations which had been successfully directed against it, by the defendants James Tilton and Clara Tilton, enured only to their own benefit, and operated no farther than as a protection of their interests, by shewing that the plaintiff's claim had been satisfied as to them. Hence it now becomes necessary to ascertain to what that proportional satisfaction amounts. These protective pleas operate as a bar of so much of the plaintiff's claim existing at the time of the death of the deceased; and which, after deducting from it any payment obtained, or to which it was entitled from the personal estate, might otherwise have been charged upon the realty in the hands of these two defendants.—*Huslewood v. Pope*, 3 P. Will. 325. And, therefore, their protective pleas operate as a bar of all costs, &c., incurred in this suit; and as presumptive evidence of the payment, in some way, of such a proportion of the whole debt so chargeable upon the whole of the deceased's real estate, exclusive of the mortgaged estate, actually applied to the satisfaction of the mortgage debt, as the value of their interest therein bears to the value of the whole real estate of the deceased at the time of his death, when their interests vested; and to which time their protective pleas relate.—*Long v. Short*, 1 P. Will. 403, note; *Craig v. Baker*, 2 Bland, 238, note.—James Tilton's life interest to have a value set upon it as of that date by the Chancellor, as usual, on proof of his then age, health, &c. This proportional deduction, unlike a claim for contribution, is an immediate and preliminary right according to which the claim of the creditor must be cut down before any others, who may be liable, can be called upon to pay the sum thus ascertained to be due.

In regard to all creditors, other than those herein before spoken of, it must also be recollected, that the statute of limitations, in general, enures only to the benefit of him who pleads it; that no creditor, who has a prior right of satisfaction, or has failed to sustain his claim, or whose claim has been, in any way, wholly barred; and who, consequently, has no interest to benefit or protect by a plea of limitations, can have any standing in this court to direct such a plea against, or to the prejudice of any one else.—*Lingan v. Henderson*, 1 Bland, 276.—That as the personal estate is primarily liable, a well sustained plea of the statute of limitations, by an executor or administrator, against the claim of any creditor must necessarily enure to the benefit of the heirs; and, so too, a complete bar of any kind as against the personalty must, to the same extent, be allowed to operate as a bar for the protection of the realty.—*Tessier v. Wyse*, ante 28; *S. C. 4 G. and J.* 296.—But although the executor or administrator may not have pleaded the statute of limitations; or may have failed to establish such a plea when relied on, nevertheless such a plea may be made available by the heirs to cover the realty, a judgment even, against an executor or administrator, being no authentication whatever against the heirs.—*Duwall v. Green*, 4 H. & J. 270; *Putnam v. Bates*, 3 Cond. Cha. Rep. 355; *Dorsey v. Hammond*, 1 Bland, 470.—That as a plea of the statute of limitations by one of several heirs enures to his benefit only, such a sustained plea by an heir operates as a bar of only such a proportion of the creditor's claim as the whole of it bears to that of such heir's interest in the whole real estate; that of the several pleas of limitations, relied on by