

given him as against the personal estate. (w) And, consequently, it will not only be necessary here to place the mortgage debt, claim No. 4, and the judgment debts, claims No. 11, 35 and 36, altogether upon the estate bound by those liens, in order to let in the general creditors, whose claims are not barred by the act of limitations as against the personalty, to obtain what they can from that fund; but also, for the purpose of having the absolute judgments, which as regards each other, stand upon an equal footing, first satisfied out of that fund, so that the heirs, who must be allowed to be substituted for them, may obtain reimbursement from the administrator himself, to the amount of their inheritance taken to satisfy the balance of those judgments. For the amount of which balance there must be a decree over in favour of those judgment creditors; or after all the creditors have been fully satisfied in favour of the heirs, who, for so much, have a right to be substituted for those creditors against the administrator against whom those absolute judgments have been rendered. (x)

I shall therefore direct, that the proceeds of the sale of the real estate be applied first in full satisfaction of the mortgage and judgment debts, claims No. 4, 11, 35 and 36, according to their respective priorities and rights as against others; that the personal estate be first applied in full satisfaction of the absolute judgments rendered against the administrator; and then, that the residue of the personalty, if any, be applied in satisfaction of those claims which, as against it, have not been barred by the statute of limitations.

The claims of these plaintiffs, designated in the auditor's report as claims No. 1, 2 and 3, have been established by the decree of the 4th of May, 1830; and, therefore, cannot now be impeached by any creditor coming in under that decree; unless upon the ground of mistake, fraud, or collusion with the defendants. (y) No objection of that kind has, however, been made or alluded to; and, therefore, the exceptions against them must be overruled. But then although these plaintiffs had, previously to the institution of this suit, obtained absolute judgments at law against the administrator of the deceased; yet having alleged in their bill, that there was not a sufficiency of personal estate to satisfy their claims; and

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(w) *Martin v. Martin*, 1 Ves. 212; *Lowthian v. Hasel*, 4 Bro. C. C. 171; *Hammond v. Hammond*, 2 Bland, 361.—(x) *Walker v. Preswick*, 2 Ves. 622; *Ellicott v. Welch*, 2 Bland, 247.—(y) *Harrison v. Rumsey*, 2 Ves. 488; *Welch v. Stewart*, 2 Bland, 38.