

personal estate, worth contending for, a disorderly scramble would take place; and those resident at a distance, infants, and all others who were unable to take care of their own interests, would be openly and wantonly defrauded, 'to the great dishonour of the dead and deceit of the living.' Such a course could not be tolerated in any shape, or for an instant. (o)

Hence the indispensable necessity, in all cases, of a regular administration; and of compelling all, as well creditors as next of kin, to resort, for the payment of their claims and distributive portions, to an administrator. It is not pretended, that these next of kin of *Anthony Hook* obtained any thing, any right whatever from his administrators. Consequently, having derived no right from either of the administrators; and none having been cast upon them by mere operation of law, they never had the power, in any manner, legally to dispose of any of the personal estate of the deceased, or to do any act which could at all affect the right of the present plaintiff.

Leave was asked and obtained, on the 7th of February, 1823, to make *James Hook*, the son of the late *John Hook*, a defendant; who on the same day filed his answer to the amended bill. And in a kind of amended or duplicate bill, filed on the 23d of July, 1824, *James Hook* is once incidentally spoken of as a defendant; no process was ever prayed against him by either bill; but by an agreement, filed on the 4th of November, 1826, he is admitted to be a party defendant. This person is no otherwise noticed in the proceedings. No charge whatever has been made against him; nor does it appear, that he can in any degree be made liable for any part of the subject in controversy, either in his individual capacity or as heir or next of kin of his father the late *John Hook*, or of his grandfather the late *Anthony Hook*. The presence of this defendant *James Hook*, appears to be in no way necessary; and therefore I shall for the present take no further notice of him.

The bills, through a portion of them, seem to consider the next of kin, or as it calls them, the *heirs* of the late *Anthony Hook*, to be parties to this suit. But they have neither been made plaintiffs nor defendants as such; and therefore, all that has been said or proved about them and their agreements must be rejected as mere surplusage. *William McMechen*, a defendant, says he answers 'the bill of complaint of *James Neale and others* represen-