

An absolute judgment against an executor or administrator conclusive as between the parties to it; but not so as between such creditor and the heir; yet the heir may, to that extent, obtain reimbursement from the executor or administrator.—*Post v. Mackall*, 499, 519.

The personal estate must be so disposed of as to leave no superannuated slave as a burthen upon it or the public, 526.

An order to take evidence to establish claims in general, 496.

Where an heir relies on the statute of limitations and the sufficiency of the personal estate, and another heir relies on the sufficiency of the personality; and the Court of Appeals decide on the plea of the statute only and remands the case; this court must consider the insufficiency of the personality as thus established.—*McCormick v. Gibson*, 501.

Any bar which precludes a creditor from the personal estate enures to the benefit of the heir for his protection also, 508.

A plea of limitation may be sustained by the heir although there be a judgment against the executor or administrator, 508.

No creditor can be allowed to obtain more than his due proportion, taking into consideration that which he may have obtained from the personal estate, 509.

Where on a bill filed against a corporation it is shewn or admitted to be in a condition of absolute insolvency, it may be thenceforward proceeded on as a creditor's bill.—*The Cape Sable Company's case*, 626, 655.

Where a claim has been put in issue and established between the proper parties, it cannot be called in question by any creditor who may thereafter come in, 642, 656, 672.

DEBTOR AND CREDITOR.

A creditor is not bound to use active diligence against his debtor.—*Tessier v. Wyse*, 35.

Where the heir, being bound by bond in respect of assets descended, pays the debt he may be reimbursed out of the personal estate of the deceased, 41.

The death of a debtor is never allowed to impair the obligation of his contract as regards his estate, 37.

On a *scire facias* against the heirs and terre-tenants they must be all summoned, to the end, that they may have the benefit of contribution as among themselves, 40.

Partnership debts must be first paid out of the joint estate; and the separate debts first paid out of the separate estate.—*Simmons v. Tongue*, 356.

The distinction between simple contract

and speciality debts.—*Post v. Mackall*, 520.

The marshalling of assets, in what cases it may be made without prejudice to creditors, 502.

A claim for contribution, being a secondary one, arising among co-debtors or those chargeable as such, can never be made or adjusted to the prejudice of creditors.—*McCormick v. Gibson*, 507.

A plea of the statute of limitations by one heir against the plaintiff's claim operates only as a bar of so much of it as such heir's proportion of the whole estate bears to the whole of the claim, 508.

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 can be called on to pay the sum thus ascertained, 508.

DECREE.

The old form of a decree setting forth the whole case as it appeared to the court.—*Anderson v. Raulins*, 41.

A decree for a sale virtually puts the estate under the protection of the court; after which an injunction may be granted to stay waste; or it may be so disposed of, pending the suit, as to prevent loss.—*Tessier v. Wyse*, 60; *Williams' case*, 215.

A decree in a creditor's suit for a sale of the realty and an account of the personality.—*Tessier v. Wyse*, 59

A decree *quia timet* to protect mortgaged property before the debt became due.—*Salmon v. Clagett*, 181.

A decree against both parties upon the ground, that the property in controversy belonged to the public.—*The Wharf case*, 384.

A decree to account for the proceeds of the sale, and the profits of property which had been held in common.—*McKim v. Odom*, 411.

As by a decree to account the defendant becomes an actor, the plaintiff cannot thereafter dismiss his bill without notice to the defendant by a rule further proceedings.—*Hall v. McPherson*, 538.

The decree should first decide upon the plaintiff's title, as there can be no account if he has no title.—*Neale v. Hagthorpe*, 561.

DEED.

The legislative enactments which require deeds to be recorded are intended to preserve the evidence of the contract, but require no even solemnity as a necessary constituent of a deed.—*Salmon v. Clagett*, 172.

A deed by which a father conveyed all his personal estate to his son, upon condition, that the son should satisfy certain specified creditors of the father.