

exceptions, the demand for full proof, and the plea of limitations, an order was passed sustaining the plea of limitations as to some claims, and settling other points, and referring the case again to the Auditor, to state an account from which were to be rejected all claims not then (the time of the audit) fully proved, and in which the plea of limitations was to be allowed against all claims liable to its operation, in favor of the parties pleading or relying upon the statute. From the account stated in conformity with this order, claims Nos. 11, 62 and 63, were rejected for want of full proof, which had been demanded of them, and certain other claims, by the owner of claims Nos. 12 and 30.

Before the confirmation of the Auditor's report, the owners of said claims filed their petitions, for leave to furnish full proof, which were set down for hearing on the 7th October, 1848, with liberty to take the necessary testimony by that day. The proof was taken and filed, and the question argued, was, whether these claims should, at so late a day, be admitted to participate in the distribution of the funds, which were insufficient to pay all the claims in full :]

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THE CHANCELLOR :

The claims in question, have never yet been submitted to, and adjudicated upon by, the court. If they had, and had been finally rejected, through the negligence of their owners, the case would be brought within the decision of the Court of Appeals, in *Kent vs. O'Hara*, 7 *Gill & Johns.*, 212, and the parties must take the consequences. It would not only be inconvenient, but mischievous, to delay and embarrass the claims of vigilant creditors, and procrastinate the final settlement of estates, if parties were allowed, after full notice and opportunity to establish their claims, to re-open the judgment of the court pronounced against them, and ask for and obtain a re-hearing upon additional proof.

But when, as in this case, no adjudication of the court stands in the way, and the fund for distribution remains undisposed of, it seems to me, that equity requires, that the new