

against those claims. Such evidence, in addition to any thing that might be said in the answer, is also necessary, because it constitutes an affirmative part of that title set up by the representatives of John Hook in opposition to the plaintiff's claim, and must therefore be supported by indifferent testimony. All the claims of the enumerated creditors, it is most likely, have been long since barred by the Statute of Limitations; but, that is a protection which the law itself gave to Anthony Hook; he is entitled, by the terms of his deed, to be furnished by John Hook, with the evidence of their having been satisfied, as the means of his protection in that form. This answer, therefore, is not for these reasons also so responsive to the bill as to afford the defendants an adequate defence. On adverting to the proofs and exhibits, it appears, that John Moale's is the only one of the specified claims, that has been satisfied; and none other are to be allowed and paid.

I lay out of this case the testimony of Henry Burman, who, as the husband of one of the distributees of Anthony Hook, has an interest in establishing the facts to which he testifies, and is therefore, an incompetent witness. All the other witnesses are competent. From the copy of the unexecuted bond, the declarations of Bishop Carroll, and the other occurrences and proceedings in the Orphans' Court, found among the proofs, it appears to have been perfectly well understood between Anthony Hook and John Hook, during their lives, that John held as the trustee of Anthony, according to the terms of the deed. *Mildmay v. Mildmay*, 1 Vern. 53. And it appears, that the representatives of John Hook always admitted, that they held under the deed; and yet, except the claim of John Moale, it does not appear, that they ever undertook to shew, that any of the claims of the enumerated creditors had been satisfied. It lay upon John Hook and his representatives to shew, that those claims were paid; they have not done so. And the truth is, therefore, that, except Moale's claim, none of them have been satisfied.

The answer of Hagthrop and wife, after some preliminary notices of several allegations in the bill, and those responses as to the payment of the enumerated debts, passes on to a long history of the sayings, actings and doings of sundry of the next of kin of the late Anthony Hook, in relation to the ten acre lot; all of which * for the reasons already assigned, it will be unnecessary to say any thing further. The bill specially charges, that **586** Hagthrop and wife, by a deed dated on the 23d of December, 1819, leased or assigned a part of the lot on Alice Anna street, to Matthew Bennett. Of this special allegation these defendants take no notice; but say, that the late Anthony Hook, by an indenture dated on the 8th of May, 1797, conveyed the lot on Alice Anna street to the late John Hook. This is an allegation in avoidance