made immediately after his death, instead of postponing it until after the payment of his debts? Why, indeed, say anything at all upon the subject of debts, when the estimate, according to the argument of the complainants, was to be made, wholly irrespective of them?

Upon this first point, then, I am of opinion that the estimate directed to be made by William Spencer of the value of his estate, was not to be made irrespective of his debts, but that the sum, to a portion of which the complainants are entitled, is to be ascertained by deducting from such estimate the amount of the debts.

The next point discussed has reference to the credit of $17,534 52, allowed in the additional account passed on the 31st of July, 1835.

To the allowance of this credit a number of objections are urged.

1st. It is insisted that the devise to Isaac by William Spencer, is to be taken as a satisfaction of this debt upon the principle that where a debtor bequeaths to a creditor a legacy equal to or exceeding the amount of his debt, it shall be presumed, in the absence of any intimation of a contrary intention, that the legacy was meant by the testator as a satisfaction of the debt.

Though such a rule as the above does prevail in courts of equity, it is certain that it has been much censured, and that very slight circumstances have been permitted to rescue particular cases from its operation. I am of opinion that some one or more of the exceptions to the rule as stated in 2 *Williams on Executors*, 805, 806, apply to this case, and that consequently the devise to Isaac Spencer is not to be regarded as a satisfaction of the debt due him. See also *Partridge* vs. *Partridge*, 2 *Har. & Johns.*, 63; and *Owings* vs. *Owings*, 1 *Har. & Gill*, 484, 491.

It is also insisted that this claim is barred by lapse of time, and the act of limitations relied on by the complainants.

I am clearly of opinion, that so far as the personal estate is concerned, the objection cannot be sustained, as the creditor