BLAND, C., 31st October, 1829.—The agreement under which this case has been submitted, is conclusive upon all the adult parties to the suit, except the defendant John McHenry, who is not a party to it; but he, being in default for not answering, may on the proceedings and proofs, he considered as having waived all objections to the plaintiff's obtaining the relief asked by the bill.

In regard to the lunatic and the infant defendants, it is clear, that their interests cannot be bound by any special agreement; and, therefore, although a committee or guardian *ad litem*, of a lunatic or infant may, in a regular course of proceeding, in some cases, consent to a decree; *Hammond* v. *Hammond*, *post;* yet as to them, in this instance, the Court must found its decree upon other and better ground than that of a peculiar agreement by which adult and sane persons alone are competent to bind themselves.

According to the general course of the Court, all cases must be regularly set down for hearing before either party is allowed to call for a decree. But in creditors' suits the course is somewhat different. In such cases, to prevent delay, and as so much is to bo done after the funds have been brought into Court, and every thing may be so easily set right, by further directions, it has long been the established practice here, as well as in England, in all such cases, where the whole, or a part of the plaintiff's claim, as designated in the bill, has been distinctly established or admitted, as specified; and it is shewn or confessed, that the personal estate has been exhausted, or is insufficient, at once to pass a decree, directing the real estate to be sold, without waiting for the case to be fully prepared for a final close, or to be regularly set down for hearing. *Holme* v. *Stanley*, 8 *Ves.* 1; *Lloyd* v. *Johnes*, 9 *Ves.* 65; *Birch* v. *Glover*, 4 *Mad.* 376. (*i*) And this being a creditor's suit,

(*i*) CHAMBERLAIN *v.* BROWN.—This was a creditor's bill, filed on the 24th of June, 1794, to have the lands of Robert Brown, a deceased debtor, sold to pay his debts, on the ground that his personal estate was insufficient for that purpose. The heirs, who were all infants, answered by their guardian *ad litem*, that their said father was indebted to a much greater amount than the value of his personal estate, and which debts could only be satisfied by the aid of the real estate, which they had no objection to being applied under the authority of this Court, to whose care and protection, as infants, they begged leave to submit themselves. William Richmond, the administrator, by his answer, admitted that Robert Brown, late of Queen Anne County, died largely indebted to the complainants, on judgments obtained in the life-time of the said Robert Brown, as in their said bill was alleged, &c.; and that this defendant has not assets sufficient to pay the debts of the said John Lloyd, as stated in the said bill.

HANSON, C., 20th April, 1797.—The Chancellor has perused these papers on submission, and finds the case not ready. There is no claim established to