Hence it appears, that by the operation of these last mentioned Acts of Assembly, and which, it is clear, from a consideration of

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power to decide according to its merits. He regrets the great delay which has taken place in this cause. From the inattention of the claimants against Solomon Clayton, and the unwillingness of the Chancellor to let them suffer from that inattention, or ignorance, it had happened that the proceeds of the sales had not been fully applied before the said Harris and Airey exhibited their claim; and the Chancellor then doubted whether or not they were not too late, a great part of the said proceeds having been paid away to only a part of the claimants. On this head he is not yet satisfied.

He now thinks proper to make a list of the papers filed in support of the claim. [Here follows a description of the papers.]

It does not appear, from the proofs, that the land sold to Mrs. Clayton at £3 per acre ever belonged to Edward Clayton. If it did not, it is not answerable for Edward Clayton's debt, and neither the petitioner, nor Mr. Hemsley, have a right to be paid from the proceeds of the sale of any but part of Neglect, which is expressly devised to Solomon by Edward.

There is no proof relative to the circumstances of George Garnet, or the two other securities, William Clayton and Nathan Wright. When claims are exhibited against an infant's estate, and it appears that the debt was due from the deceased and another, or others jointly, it has been the Chancellor's uniform practice to allow only the just proportion to come out of the infant's estate. The practice is founded on this consideration: that on an application by creditors for the sale of an infant's estate, it is a matter of sound discretion, whether or not the Chancellor will decree a sale. He is governed by circumstances. In case of a debt due from the ancestor or devisors jointly with another who is solvent, the Chancellor might say, I will not decree a sale, or I will not suffer you to receive your debt from the infant's estate; because you have it in your power, or had it in your power, since the ancestor's or devisor's death, to recover your whole claim from the other debtor. But the Chancellor conceived that to avoid circuity of action, and do justice to all, it was proper to charge the infant only his just proportion, or to admit the claim against the estate for only a just proportion. Were Garnet, William Clayton, and Nathan Wright all insolvent? Was one of them solvent, and the others not? Have any steps been taken to recover from them? It is certain, perhaps, that they are now protected by the Act of Limitations; but is this a reason wherefore Edward Clayton's estate is to be charged with the whole?

It would have been more satisfactory to the Chancellor to have had the claim exhibited to him in the beginning, instead of the petitioners prosecuting a suit at law against the administrator *de bonis non*. He is not even clearly satisfied how the claim has been ascertained against that administrator.

The Chancellor is under the impression, that he long since suggested verbally the points in this case; and the proofs which were necessary. He is under an impression, that besides other papers, which are now missing, was the argument in writing of counsel. However, he has now fully explained his ideas, and suggested his doubts and wishes to have all the proof which can be obtained, to hear the counsel, and to put an end to the case as speedily as possible. He has not yet had it in his power to decide on the true merits.

It is now proper to say something of the claim of William Hemsley and Peregrine Tilghman. Solomon Clayton having, as is proved to the Chancellor's satisfaction, passed a bond to them, in consideration of a debt due from