

turned over to the Chancellor to adjudicate upon; and hence, discarding the mere forms and modes of proceeding by which controversies are brought before this Court, and prepared for final decision and nothing more, the case must be heard and disposed of according to the substantial principles of equity, as if it had been brought here pursuant to the regular course of proceeding. And, consequently, without any reference to the mere forms peculiar to this Court, the claim must be considered on its merits; that is, as a common controversy between a creditor and debtor, merely putting the State in the place of the Mollisons; but giving to the creditor every advantage he ought to have, upon the ground that the Acts of the State, if any such there be, have embarrassed, postponed, or destroyed his remedy against his debtors, the Mollisons, without affording him another equally efficient.

Proceeding then, to consider this case as one, which like all others, legally submitted to the Chancellor for adjudication, must be governed by the principles of law and equity arising out of the facts of which it is composed, it will be necessary in the first place to gather up all those facts, and exhibit them in their proper order. The case as to facts stands thus:

It appears that William and Robert Mollison, merchants resident in London, were sometime before and until about the year 1775, *very extensively engaged in trade to this country; **101** that they had five separate stores in Maryland managed by agents; some of whom, without being publicly acknowledged as such, continued to reside here during the Revolutionary War; and after the peace of 1783, they had, in this country, several active and openly acknowledged agents, charged with the settlement of their former commercial affairs. That the Mollisons had, so long as they carried on their trade, large consignments of tobacco made to them from time to time by various persons of Maryland; and had debts due to them by a number of persons here, to a very large amount; that they suspended their payments about the year 1776; but some of their creditors received payments on account of claims against them as late as the year 1793.

It further appears, that the late John Hepburn, during his lifetime, had shipped several parcels of tobacco to them; that Hepburn made his will and died some time in the year 1775, in Prince George's County, leaving Samuel C. Hepburn as his executor, who acted as such accordingly; that the Mollisons, by their letters, admitted themselves to be indebted, on the 1st of April, 1776, to the estate of the late John Hepburn, on account of shipments of tobacco, to the amount of £316 sterling, equal to \$1,404.44 of our present legal money; that the executor Samuel C. Hepburn, on the 15th of March, 1776, drew a bill of exchange in favor of Philip Thomas upon the Mollisons for the sum of £260 sterling, directing in the bill itself, that the same should be placed to the account of the