

the money has been lost; if Scott, being their selected and trusted agent and solicitor, wasted the money, which their confidence in him enabled him to receive; and if this conduct on their part could be regarded, in considering the responsibility of Mr. Glenn, his associate, and furnished a reason why he should not be held answerable, surely the same facts are not to be entirely overlooked, when an attempt is made to compel parties who have honestly paid a debt, to pay it a second time. It has been already remarked, that in deciding the case upon the appeal of Glenn, the Court of Appeals refer, with emphasis, to the maxim, that the vigilant and not the slothful are the favorites of the law, and apply it with great force against the petitioners, because they omitted to procure (as they might have done) a revocation of the order of the Chancellor, suspending the distribution of the money, by which the default of Scott remained a secret, until he became insolvent, and, perhaps, until his death should give to others a right to claim that portion of the fund, to which, as administrator of one of the complainants, he was entitled.

But if the maxim could be pressed against the petitioners at that time, it may certainly be urged now with duplicated force. The petition was filed in March, 1843, being only five years after the decision of the Court of Appeals in 1848, settling the rights of the parties. The bill, in this case, was not filed until April, 1848, five years later, being ten years from the period when, by the judgment of the court, the right of these plaintiffs to the money was finally adjudicated. If sleeping upon their rights for five years, exposed them to the imputation of negligence, surely their supineness for an additional five years, should not render the court more disposed to grant them relief. If they had moved with more alacrity, the insolvency of Scott, which took place between 1838 and 1843, might not have presented an obstacle to the recovery of the money from him, and if so, there would have been no loss. But, say the court, you have slumbered over your rights, thus preventing the default of Scott from becoming known until he became insolvent, and, therefore, you have no right to look to Glenn, to