

of Baltimore, to his wife and Jacob G. Davis, *in trust* for the separate use of his daughter, Sarah Hitch, during her natural life, and after her death then for the separate use of his granddaughter, Augusta Hitch, daughter of the said Sarah, during her natural life, and after her death for the use and behoof of the lawful issue of the said Augusta, and for the heirs and assigns of such issue for ever, if any child or descendant of hers there be living at the time of her decease, and if none, then to hold all said estate, property, and stock in trust for the separate use of his daughter, Mary Davis, during her natural life, and after her death then in trust as to the aforesaid country-place for the use of his grandson Solomon Betts Davis, his heirs and assigns for ever. On the 4th of June, 1851, Augusta Hitch, during the life of her mother, Sarah Hitch, filed her bill asking the Court to have this land demised, as stated in the following opinion of the Chancellor, which also contains a full statement of the defence relied on in the answers of the defendants and of the proofs in the cause.]

THE CHANCELLOR :

This bill is founded upon the provisions of the Act of 1831, ch. 311, and it is supposed, and I think correctly, that the 5th section of the Act applies to the circumstances of the case, and would authorize the Court in decreeing the relief prayed, if by the pleadings and proofs it appeared that it would be for the interest and advantage of the parties to do so.

I do not concur in the view taken by the counsel for Mrs. Davis and Solomon B. Davis, that the party who applies to the Court to order a demise under this section of the law, must be the tenant in possession. The language of this section is : "That the Chancellor, or County Court aforesaid, shall have the same authority to decree a demise, or demises, under the rules and regulations as aforesaid, where the tenant of the particular estate for life, or for years, or for other estate, shall be of full age, and shall pray for such decree." The effect of the section is to authorize the tenant of any particular estate, of full age, whether in possession or not, to apply to the Court,