

“The committee cannot believe that it will comport with the separate and independent power, which the Constitution has cautiously secured to the legislative and judicial departments of the government, that the legislature should erect itself into an appellate tribunal for the revision of a judicial opinion. The organization of the legislature, and its mode of proceeding, are certainly by no means calculated to ensure to parties litigant, a correct or intelligent decision. If in the progress of the judicial return, and the developement of legal principles, and their application to peculiar circumstances, they shall be found productive of results which the people of the State deem to be oppressive or inconvenient, it will at all times be the legitimate province of the legislature, to repeal or modify the law. Some of the most salutary provisions of our code have originated from the inconvenient operation of general principles in their application to particular cases. But in this, as in all other instances, individual injury is to be submitted to, when it can only be avoided by endangering the public weal.

“The committee are entirely satisfied, that it will be inconvenient, and may in very many cases be extremely oppressive to defendants in chancery, to be compelled to bring money into court until a final decision upon their claims to it; and still more inconvenience and oppression, they believe, might grow out of the principle, that an order to bring money into court can be used by the Chancellor as a compulsory process, whereby litigant defendants shall be coerced into an early decision of their rights; and they would suggest the propriety of legislation upon the subject. But they still retain the opinion, that injurious as may be the consequences of this decision to the petitioner, yet the mischief of special legislation to interrupt the regular operation of the course of judicial proceeding, and the assumption of powers which by the Constitution have been declared to belong exclusively to an independent department, is of much greater concern to the community. Such a precedent would open the door to the introduction of a class of cases not more to be dreaded by the number, than by the difficulty of distinguishing their various grades. From a state of perfect certainty, through all the intermediate stages of conviction, to a state of perfect doubt, as to the correctness of the judicial decision which shall become the subject of relief, the legislature may expect to find itself called on to execute this portion of its newly assumed power.