

of Chancery to sell such estates in remainder or reversion belonging to *minors* as estates in possession. (b)

Edward Harris, and Thomas Airey and wife, by their petition filed on the 16th of December, 1796, exhibited a claim against Solomon Clayton, deceased, as having died, seized of land which had descended, or been devised to him by his father, Edward Clayton. They alleged, that the said Edward Clayton, with three other persons, became security in a bond for Elizabeth Harris and George Garnet, executors of Thomas Harris, father of the said Edward Harris, and the wife of the said Thomas Airey; that there was due to them, from the said executors, a large sum for filial portions; that the executors not having discharged the said claim, a suit was instituted against the said Hannah on her bond, and judgment obtained by default; that she died, having fully administered, &c.; that then Michael Earle administered on the goods not, &c. of Edward Clayton, and died, having fully administered; that they had revived the judgment against him, and endeavoured to execute a writ of inquiry; that at length the damages were ascertained at September term, 1795, to £1,084 and costs; that as there is no personal estate of Edward Clayton, the lands in the hands of his grandchildren, which have come to them from him, are liable; that Solomon, their father, to whom the said lands from Edward had descended, had no personal estate; that they are entitled to be preferred to the proper creditors of the said Solomon; that they had not exhibited their claim before money had been paid to the said proper creditors; but as there is a balance in the trustee's hands of £682 *Ss.* 6*d.*, they claim it in virtue of that title to preference.

20th March, 1800.—HANSON, *Chancellor*.—The claims of these petitioners, when their petition was filed, were then laid before the Chancellor who found their proofs defective, and suggested what was necessary to bring the merits of the case fairly before him. The papers have since been laid before him several times, but he always has found them defective. He has this day examined every paper filed relative to the claim, and it appears to him that several papers which had been filed are now wanted, and it is not in his 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 debts, 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