Hence it appears, that by the operation of these last mentioned acts of assembly, and which, it is clear, from a consideration of

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on this consideration: that on an application by creditors for the sale of an infant's estate, it is a matter of sound discretion, whether or not the Chancellor will decree a sale. He is governed by circumstances. In case of a debt due from the ancestor or devisors jointly with another who is solvent, the Chancellor might say, I will not decree a sale, or I will not suffer you to receive your debt from the infant's estate; because you have it in your power, or had it in your power, since the ancestor's or devisor's death, to recover your whole claim from the other debtor. But the Chancellor conceived that to avoid circuity of action, and do justice to all, it was proper to charge the infant only his just proportion, or to admit the claim against the estate for only a just proportion. Were Garnet, William Clayton, and Nathan Wright all insolvent? Was one of them solvent, and the others not? Have any steps been taken to recover from them? It is certain, perhaps, that they are now protected by the act of limitations; but is this a reason wherefore Edward Clayton's estate is to be charged with the whole?

It would have been more satisfactory to the Chancellor to have had the claim exhibited to him in the beginning, instead of the petitioners prosecuting a suit at law against the administrator *de bonis non*. He is not even clearly satisfied how the claim has been ascertained against that administrator.

The Chancellor is under the impression, that he long since suggested verbally the points in this case; and the proofs which were necessary. He is under an impression, that besides other papers, which are now missing, was the argument in writing of counsel. However, he has now fully explained his ideas, and suggested his doubts and wishes to have all the proof which can be obtained, to hear the counsel, and to put an end to the case as speedily as possible. He has not yet had it in his power to decide on the true merits.

It is now proper to say something of the claim of William Hemsley and Peregrine Tilghman. Solomon Clayton having, as is proved to the Chancellor's satisfaction, passed a bond to them, in consideration of a debt due from Edward Clayton, they did not thereby lose their lien on Edward Clayton's land, but gained an additional security, and all Solomon's lands are liable. As to the land coming from Edward Clayton, they are to be preferred to all the creditors, except the present petitioners. As to Solomon's land, if any there be, which did not come from Edward, they are on a footing with other creditors. The petitioners, having a claim against Edward's estate only, can have no title to be paid out of that part of Solomon's land, if any there be, which did not come from Edward.

The case was again brought before the Chancellor by the trustee for further directions, and praying that his trust and the whole proceedings might be brought to a close.

8th March, 1805.—HANSON, *Chancellor*.—No cause has ever been before the Chancellor in which he has had so much trouble in examining the proceedings, and making statements and orders, and instructions in writing, in order that the merits of the several claims might be brought fairly before him. He has suffered great uneasiness on account of that delay which has taken place, which may appear to be unaccountable, but which has been owing to the negligence, inattention, or ignorance, or all combined of the parties themselves. In the beginning all the claims exhibited were merely against Solomon Clayton, as if the debts were originally due from him. Had that been the case the proceeds of the sale would have been properly divided amongst the claimants in due proportion, and a considerable part of