

the then existing law, could have had, and were always understood to have had no other object, that the privilege formerly

each claim would have been discharged. As matters then stood, the Chancellor directed several payments to be made out of the money in the hands of the trustee. But, before the dividend was actually struck, a claim was exhibited on the part of Dr. Harris and Mrs. Airey for money due from the estate of Edward, the father of Solomon Clayton, from whom the land came to the said Solomon. Of this claim the Chancellor had never been apprised. They claimed a preference to the proper creditors of Solomon Clayton. But, inasmuch as money had been paid away, before they came into court, they professed themselves, by counsel, willing to take only the money remaining in the hands of the trustee.

After this Messrs. Hemsley and Tilghman required also a preference, on account of their claim having been founded on a debt originally due from Edward, the father. It appeared likewise, that the debt to James Anderson, was originally due from the said Edward. By far the greater part of the delay in the case has arisen on the part of Dr. Harris, whose petition was not accompanied with the necessary vouchers to establish all the points, on which his claim against the estate and the title to preference were supposed to be founded. In the course of several years, his papers have several times been laid before the Chancellor and as often found defective ; although the Chancellor had stated his ideas, and even given full directions in writing.

The Chancellor must here refer to a statement and remarks made in writing on the 20th day of March, 1800 ; in which he states the practice and principles of this court, relative to joint debts, due from a person deceased, whose land, in the hands of infant heirs or devisees, is sold under a decree of this court. And he conceives, that agreeably to those principles, Dr. Harris and Mrs. Airey ought not to be allowed more than one-third of their claim, supposing even that there were enough to pay all the creditors of Edward, the father of Solomon, the son.

The trustee now comes, and applies to the Chancellor, anxious to discharge himself of the money, and to complete his trust ; and under all circumstances the Chancellor thinks proper to have the business closed with as little further delay as consistently may be.

It is *Ordered*, that the auditor state an account dividing in due proportion to the amount of their claims, amongst Edward Harris and his sister Mary Airey, and Messrs. Hemsley and Tilghman the money arising from the sale, after deducting the costs of suit, and the trustee's commission of £112 10s. in which is included near £30, for surveying, advertising, &c. and the expense of several necessary journeys or voyages ; and deducting too £45 paid to Ringgold in part of his claim. Dr. Harris and sister to be allowed for one-third of their claim. Hemsley and Tilghman, for their whole claim. Hindman to be allowed only for his claim as representative of James Anderson.

N. B. Inasmuch as it was plainly the fault of the said claimants in not shewing their title to preference, that £45, which was less than one-half of his claim, was paid to Ringgold, the Chancellor conceives it just, that the loss of the said sum should be proportionably borne amongst them. Had it not been for the preferences, it is certain, that each claimant would have drawn one-half of his claim ; and as dividends would have been struck before the payment to Ringgold, had not vouchers been wanting in some cases, and the precise amount of some claims uncertain. The Chancellor thought it improper to let the money lie useless ; as would have been the case, if the claim of Harris and Airey had not been exhibited soon after the preference claimed. It was indeed fortunate that a proportionable sum was not