

or so that the property might be made productive for the relief of the necessities of those interested; or to enable infants to convey in pursuance of a will under which they took as devisees. Under such laws the Chancellor proceeds according to the mode prescribed, pursuing the ordinary course of proceeding in aid of such private acts, and only so far as they are silent as to the mode of proceeding and the powers conferred by them may be so executed, and are constitutional. (n)

Here it is perfectly manifest, that the resolution by which this case has been referred to the Chancellor, makes no assumption of facts; nor admits any; nor, on behalf of the state, waives the benefit of the well established principles of law or equity properly applicable to the merits of the case; but on the contrary it calls upon the state's chief law officer to attend and defend its rights and interests. (o) The case was presented to the General Assembly by petition, accompanied by sundry vouchers and documents; and, in that form, it has been turned over to the Chancellor to adjudicate upon; and hence, discarding the mere forms and modes of proceeding by which controversies are brought before this court, and prepared for final decision and nothing more, the case must be heard and disposed of according to the substantial principles of equity, as if it had been brought here pursuant to the regular course of proceeding. And, consequently, without any reference to the mere forms peculiar to this court, the claim must be considered on its merits; that is, as a common controversy between a creditor and debtor, merely putting the state in the place of the *Mollisons*; but giving to the creditor every advantage he ought to have, upon the ground that the acts of the state, if any such there be, have embarrassed, postponed, or destroyed his remedy against his debtors, the *Mollisons*, without affording him another equally efficient.

Proceeding then, to consider this case as one, which like all others, legally submitted to the Chancellor for adjudication, must be governed by the principles of law and equity arising out of the facts of which it is composed, it will be necessary in the first place to gather up all those facts, and exhibit them in their proper order. The case as to facts stands thus:

It appears that *William* and *Robert Mollison*, merchants resident in London, were some time before and until about the year 1775,

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(n) *Cambells*, 2 Bland, 280; *Williams' case*, post; *Hughes' case*, 1 Bland, 46; *Iglehart v. Armiger*, 1 Bland, 520.—(o) 3 Blac. Com. 256; *Mitf. Plea*. 31.