any right; with which I have nothing to do? In the case put, of tithes, the party could not tell, where he was to go to take his tithe; and therefore must ab-[346]-stain: but upon the Plaintiff's argument in this case one may print as many as the other; and can therefore help himself without the aid of Equity. Could the King's Printer, having permitted the Universities to print all the Bibles, claim a proportion here, merely because he had abstained from the exercise of his concurrent right? If the resolutions of the Houses of Parliament, with the King's Act upon them, give a legal title, the Plaintiff may bring an action. If they do not give a legal title, how can they give an equitable title? I hold the resolutions nothing, unless they give a legal title. Whatever moral and natural equity may be raised upon them, I cannot take them as giving me a rule in a Court of Equity.

The *Attorney General* [Perceval] and Mr. *Romilly*, for the Defendants resisted the right of the Plaintiff to have the Bill retained; contending, that the Plaintiff had no right whatever to come into this Court. Admitting the right to go to Law, this Bill is not framed with a view to give this Court jurisdiction. They have not prayed an injunction; which is the sole ground of the jurisdiction. In cases of waste, and literary property by analogy to waste, the account depends entirely upon the injunction, *Jesus College* v. *Bloom* (3 *Atk.* 262).

The *Lord Chancellor*. In cases of waste the account certainly goes merely upon the injunction. (See the distinction as to equitable waste, *The Marquis of Lansdown* v. *The Marchioness Dowager of Lansdown*, 1 *Madd.* 116.) I had occasion to consider that lately in the case of *The Universities of Oxford and Cambridge* v. *Richardson* (6 *Ves.* 689; see p. 701, 705. See also 89). Upon this part of the case I will consider till to-morrow.

[347] As to the rest I have not the slighest doubt. The question here is upon the legal right of the Plaintiff; and, if he can maintain an action upon the legal right, the account is to be granted; if there is no objection upon the form of the Bill. If he cannot maintain the legal right, it is impossible to say, he has an Equity. I cannot enter into the consideration of the moral right. He must have such a right as a Court of Equity takes notice of. He has a right to insist on bringing an action; and if I retain the Bill, it shall be for six months, with liberty to bring an action; putting the Defendants under the terms of pleading speedily.

Feb. 29th. The Plaintiff desired to have the opinion of the *Lord Chancellor* without going to Law.

The *Lord Chancellor* said, his opinion was, that, whatever natural Equity there might be upon this subject, there was no such Equity as this Court can administer.

The Bill was therefore dismissed without costs.

The CITY OF BERNE in SWITZERLAND *v.* The BANK OF ENGLAND. *Feb. 29th*, 1804.

[*Republic of Peru* v. *Dreyfus*, 1888, 38 Ch. D. 358.]

A judicial Court cannot take notice of a Foreign Government, not acknowledged by the Government of the Country, in which that Court sits; and the fact of acknowledgment is matter of public notoriety.

Mr. *Romilly*, for the Plaintiff, on behalf of himself and the other members of the Common Council Chamber of the city of *Berne* in *Switzerland*, and the [348] Burghers and Citizens of that city, moved, that the Governor and Company of the Bank of *England* and the *South Sea* Company may be restrained from permitting a transfer of, and the trustees from transferring, certain funds, standing in their names under a purchase by the old Government of *Berne* before the Revolution.

Mr. *Piggott* and Mr. *Wooddeson*, for the Bank of *England*, and Mr. *Mansfield* and Mr. *Steele*, for the Trustees, opposed the motion; on the ground, that the existing Government of *Switzerland*, not being acknowledged by the Government of this Country, could not be noticed by the Court.

The *Lord Chancellor* would not make the Order; observing, that he was much struck with the objection; and it was extremely difficult to say, a judicial Court can take notice of a Government, never authorized by the Government of the Country, in which that Court sits; and, whether the Foreign Government is recognized, or not, is matter of public notoriety. (*Note*: So the Court refused to act in a suit

instituted by persons representing themselves as the Colombian Government ; which was not recognized by the Government of this Country ; 1823, 4.)

OWEN *v.* FOULKS. *March 1st*, 1804.

A person, who opened Biddings, but was not the purchaser, allowed his Costs, on the special circumstances ; having opened them, not on his own account, but for the benefit of the family.

A motion was made, that a person, who had opened the biddings, but who was not the purchaser, from some mistake, as it was said, might have his deposit back, and also his costs.

[349] Mr. *Bell*, in support of the motion, as to the costs said, this was precisely the case excepted by the *Lord Chancellor* (see *Rigby* v. *M'Namara*, 6 *Ves.* 466, and the note) ; where the party had opened the biddings, not on his own account, but for the benefit of the family ; who had considerably benefited by it : there being an advance on several lots.

The *Lord Chancellor* said, he thought the distinction reasonable ; that, where he opens the biddings, not for his own benefit, but for the benefit of all parties concerned, he shall have his costs ; and made the order ; desiring it to be always expressed, that it is upon the special circumstance.

HALL, *Ex parte*. *March 2d*, 1804.

A joint creditor, being the petitioning creditor under a separate Commission of Bankruptcy, entitled to prove, and vote in the choice of assignees, &c., with the separate creditors ; not being within the rule, excluding the other joint creditors.

The object of this petition was to prove under a separate Commission of Bankruptcy.

Mr. *W. Agar*, in support of the petition, distinguished the case of the petitioner, a joint and separate creditor, as being the petitioning creditor under the Commission ; and therefore not within the rule in *Ex parte Elton* (3 *Ves.* 238, and the note, 243. *Ex parte Clay*, 6 *Ves.* 813, and the references. *Ex parte Chandler*, 9 *Ves.* 35) ; and cited *Ex parte Ackerman* (14 *Ves.* 604 ; 15 *Ves.* 499, and the notes) as an authority, that, **[350]** being the petitioning creditor, he has a right to prove, and vote in the choice of assignees, &c., with the separate creditors.

The *Lord Chancellor* [Eldon]. I think, that was right ; that being the petitioning creditor, he has a right, like the separate creditors. The reason of Lord *Thurlow's* Orders was, that he could not conceive, how one joint creditor could be in a different situation from all the other joint creditors. But the practice is now settled.

Therefore let the petitioner be admitted to prove and vote, as the separate creditors. As to the other joint-creditors there must be the common Order.

DAVIS *v.* PAGE. *March 5th*, 1804.

The Court would not permit a reference to Arbitration ; one of the parties being stated to be a *feme covert*, interested in real estate ; nor even a reference to the Master, whether it would be for her benefit ; as in the case of an infant ; distinguishing the case of Election, upon the condition imposed.

A reference to arbitration being proposed, an objection was taken, that one of the parties was a married woman, in respect of her interest in a real estate.

The *Lord Chancellor* under those circumstances thought, he could not permit the reference.

Mr. *Richards*, for the Plaintiff, then desired a reference to the Master to inquire, whether it would be for the **[351]** benefit of the married woman, that the cause should be referred ; comparing it to the case of election.

The *Lord Chancellor* [Eldon], acknowledging the practice in the case of infants, said, he knew no instance of such a reference in the case of a married woman. His Lordship observed, that the case of election was quite different. There she is to