

The liability of heirs as terre-tenants, and the equity between them as to contribution. (c)

Where the obligor binds himself and his heirs, the land descended is liable in the hands of the heir; but if there be personal estate, and the heir pays the debt, he may be reimbursed from such personalty, upon the ground of its being the primary and natural fund for the payment of debts. (d)

The cases in which the parol shall demur during the infancy of a party.

In a creditor's suit, by a bond creditor, independently of any statutory provision, the personal estate was always first applied, as far as it would go, to save the realty; and the statute making lands liable to be taken in execution and sold for the payment of debts, has made no alteration as to any creditors in that respect; *although it has been so construed as to allow simple contract creditors to obtain payment **29** from the realty in no other way than by a creditor's suit in equity.

The Act of Assembly which authorizes the sale of land, with the consent of the guardian of the infant, does nothing more than, so far, to qualify the infant's privilege to have the parol to demur.

The several Acts of Assembly relative to the mode of proceeding by or against an infant, where a suit at law abates by death; and relative to the administration of assets, have made no alteration in the law as to the rights of creditors, or as to the mode of proceeding in a creditor's suit.

The only material alteration of the pre-existing law made by the Act of Assembly in relation to the sale of real estate descended or devised to infants, is that of having virtually abolished an infant's privilege of having the parol to demur in a creditor's suit.

The provisions of the Act of Assembly allowing creditors to obtain satisfaction from the escheatable estate of their debtor, do not affect their rights, or any mode of proceeding as against his heirs or devisees.

Where the then defendants are entitled to both personal and real estate, the making of the personal representatives of the deceased debtor a party may be dispensed with.

In a creditor's suit, even if the bill should be dismissed as to the heirs, yet relief may be had against the administrator to the extent of the assets in his hands.

The decree for a sale virtually puts the estate under the protection of the Court; and, therefore, an injunction may be granted to stay waste.

The mere fact of an infant's having attained his full age is not a ground for rehearing in a creditor's suit.

Although an infant, who attains his full age pending a suit, may be allowed to come in, as of course, and demur, plead, or answer, yet he cannot be permitted to do so in a creditor's suit after a decree.

THIS bill was filed on the 15th of June, 1825, by John Tessier and Samuel Smith and James A. Buchanan, trading under the firm of S. Smith & Buchanan, against John M. Wyse, William A. Wyse, Eliza Wyse, Margaretta Wyse, Edward Wyse, Nicholas H. Wyse, Matilda Wyse, Francis O. Wyse, Joseph Allender, and

(c) Cited in *Polk v. Pendleton*, 31 Md. 123.

(d) See *Chase v. Lockerman*, 11 G. & J. 185.