

turns has been in principle, if not in terms, decided by the Court of Appeals in the several cases of *The State vs. Krebs*, 6 H. & J., 31; *Leadenham vs. Nicholson*, 1 H. & G., 267; and *Hammond v. Steir*, 2 G. & J., 81.

These it is said were cases under the Act to direct descents, and the question was at what stage of the proceedings the lands of the wife were changed into money, and thus placed under the control of the husband, or liable to the demands of his creditors. They were not, however, all of them cases under the Act to direct descents; two of them being cases under the 12th section of the Act of 1785, ch. 72, which provides for the sale of lands held by infants, &c., jointly or in common with any other person, when it is made to appear by pleadings and proofs that it will be for the interest and advantage of all the parties that a sale should be made.

It seems to me, however, not to be at all material, by what statute, or for what purpose, the land may be ordered to be sold; and the Court of Appeals say expressly in the case of *Leadenham vs. Nicholson*, that the rule established in the prior case of *The State vs. Krebs*, where the land had been sold under the Act to direct descents, and the proceeding to affect the money was by attachment in a court of law, was applicable to and should prevail in equity.

The question in all the cases was, whether there had been a mutation of the real into personal estate, and the decision was: "that the mutation may be determined to be complete when the commissioner's sale is ratified by the Court, and the purchaser has complied with the terms of it by paying the money, if the sale is for cash, or by giving bonds to the representatives, if the sale is on a credit." This language, to be sure, was used with reference to a sale by commissioners under the Act to direct descents, but it was adopted by the Court as furnishing the true rule, in the case of *Leadenham vs. Nicholson*, where the sale was made by a trustee under the 12th section of the Act of 1785, ch. 72.

I take it therefore to be clear, that whether the sale is made by commissioners under the Act to direct descents, or by a