

The Act of November session 1785, ch. 80, passed 11 March 1786, provided in its 7th Section that no creditor should be entitled to any priority or preference, except judgment creditors, and further directed the executor to advertise in any of the United States where any creditors of the deceased are supposed to reside for such creditors to appear &c. Mr. Pinkney in his notes in the case of Fitzsimmons and Redgate, 3 H. & McH. 177 says that this clause directs a division of assets in the hands of the executors equally between all creditors without priority or preference, and the intention was to put all citizens of the United States on the same footing.³

These latter three Acts were brought to the notice of the Court in the above cited case of Murray v. Ridley's Administratrix. There Ridley the intestate died on the 13th November 1789. He was indebted to the State on simple contract subsequently to the passage of the Act of 1785, to others, citizens and non-residents, on specialty and simple contract, and to one Vanderstigen, a foreigner, on bond dated in July 1772. The opinion of the Court was asked whether the State was entitled to a preference in payment over all creditors on simple contract or on such specialty debts. And the Court said that the State by the *common law* is entitled to a preference of *all debts* unless on record due by Ridley. It had been previously decided by the same Court in Hollingsworth v. Patten's Administratrix, 3 H. & McH. 125, that if judgment is obtained against one in his life-time, his executor is bound to satisfy such judgment in preference to a debt on specialty passed to the State after such judgment rendered. And the general doctrine of the State's preference had on the other hand been determined in the State v. Rogers and wife, 2 H. & McH. 198, where a *sci. fa.* issued under the Act of 1781, ch. 23, (to secure the redemption of bills of credit emitted by the State) on the 31st March 1786 upon a bond to the State dated 4th February 1782, in which the ancestor of the wife was obligor. The defendants pleaded that the ancestor was indebted to a third party for which debt he gave his bond on the 4th April 1785, and on the 17th September 1785 suit was brought on the latter bond which was then depending. Judgment was given for the State on demurrer in May term 1786 on the ground that it had a preference. And in Contee v. Chew's Executor,* 1 H. & J. 417 it was determined that where the State and an **15** individual have judgments against a deceased person, in payment of his debts the judgment of the State has a preference. In this case the deceased's estate was insolvent, after satisfaction of the State's claim. And see Green's Estate, 4 Md. Ch. Dec. 356.

The doctrine thus laid down, that the State has a priority in the distribution of the property of the debtor requiring the debt of the State to be first paid where the individual creditor has no antecedent lien overreaching it, has been recognized in all subsequent cases, Davidson v. Clayland, 1 H. & J. 546; State v. Bank of Md. 6 G. & J. 205; Smith v. State, 5 Gill 45; State v. Mayor and City Council of Baltimore, 10 Md. 504; Hodges v. Mulli-

³Cf. Code 1911, Art. 93, sec. 115.