

In a creditor's suit the case may be submitted, to obtain a decree for a sale, without having been regularly set down for hearing. (b)

Formerly the estate of a lunatic might be saved as far as practicable; and as regarded infant heirs and devisees, the parol might demur; but now, on the answer of a lunatic by his committee, or an infant by his guardian *ad litem*, in a creditor's suit, a sale of the realty may be at once decreed to pay debts.

A devise for the payment of debts if sufficient and effectual for that purpose is valid, and creditors can only take the estate devised, but if the property devised is insufficient, it is void as to creditors.

In England, private Acts of Parliament have only been passed in cases where the parties could be relieved in no other way.

Such acts are considered only as conveyances, binding on those alone who are parties; and if tainted with fraud, may be set aside. (c)

Although the facts set forth in a bill of attainder cannot be questioned, yet the truth of a fact stated in a private Act of Parliament cannot be assumed to the prejudice of any private right.

Here, as well as in England, apart from any constitutional objection, a statute, because of its being inexplicable, contradictory, or altogether absurd, may be declared void. (d)

Here, as the sovereignty belongs to the people only, our Government is limited, as well by its nature as by special constitutional restrictions.

The General Assembly can pass no law impairing the obligation of contracts, or injuriously affecting the right of private property; or exercise any authority whatever beyond its own sphere as a Legislature. (e)

Private Acts of Assembly operate here like conveyances, binding only on the parties, and are valid only in so far as they do not conflict with

210 the * Constitution.

Legitimacy is a legal capacity or privilege of which the Legislature cannot constitutionally deprive any one.

But the Legislature may prospectively, and without prejudice to the rights of any one, declare a marriage to be valid, and any bastards legitimate.

A marriage between then living parties, although held to be a contract, may be annulled.

An Act giving authority to mortgage the real estate of a deceased person for the payment of his debts, may bind his heirs and devisees who applied for it, but it cannot affect the rights of his creditors.

Although bond and simple contract creditors, as such, have no lien on the real estate of their debtor, yet no alienation of the heir or devisee to their prejudice, after a creditor's suit has been commenced, can be sustained.

During the pendency of a suit, a defendant cannot encumber or sell the estate to the prejudice of a plaintiff who may have a claim upon it, or of a party who, as a creditor, may have a right to have it sold as assets to be applied in satisfaction of the deceased's debts. (f)

(b) See *Hammond v. Hammond*, *post*, 306.

(c) See *Hepburn's Case*, 2 Bland, 100; *State v. Reed*, 4 H. & McH. 6.

(d) Cited in *Chew Heong v. U. S.* 112 U. S. 555.

(e) See *Regents v. Williams*, 9 G. & J. 365; *Baughner v. Nelson*, 9 Gill, 300.

(f) *Lis pendens*. A purchase made of property actually in litigation, for a valuable consideration and without any express or implied notice in point