

tor has been fully established, to order the real estate of the deceased to be sold for the payment of his debts. 1785, *ch. 72, s. 5.*

In this instance, the claim of these plaintiffs, as designated, has been admitted, and the insufficiency of the personal assets for the payment of that claim has also been distinctly admitted; and, therefore, upon these admissions, which the committee of the lunatic, and the guardian *ad litem*, of the infant were competent to make, since the answer of a lunatic by his committee may be read against him, as an answer of one of full age and sound mind. *Loring v. Caverly, Prec. Chan. 229; Wilson v. Grace, 14 Ves. 172.* And the answer of an infant by his guardian *ad litem*, at least in cases of this kind, may be read against him also, as if made by him when of full age, *Hammond v. Hammond, post*; there can be no doubt as to the power and duty of the Chancellor immediately to decree a sale of the real estate for the payment of the debts of the deceased, without regard to any postponement or delay to which a lunatic or infant was formerly entitled, or with which they might otherwise have been indulged.

All real estate in Maryland has been made subject to be taken and sold for the satisfaction of the debts of its owner; yet that has not in any manner affected the debtor's right to alien, or devise it *bona fide*, in any way he may think proper. It has, however, been declared by statute, that all devises in fraud of creditors, shall be deemed void, 3 *W. and M. c. 14*; that is, where the debtor devises his real estate to any one, without leaving a sufficiency in the hands of his heir, or executor, to pay his debts. Yet, if a testator devises real estate for the payment of his debts, in a way that may be sufficient and effectual for that purpose, it will not be affected

226 by this statute. * But if the real estate set apart by the testator for the payment of his debts be insufficient, or be given in such a manner as to be ineffectual, then it will be considered as coming within the meaning of this statute, and be deemed void. Otherwise the creditors must take that real estate of the deceased debtor which he has devised for their benefit, and none other. *Hughes v. Doublen, 2 Bro. C. C. 614; S. C. 2 Cox, 170; Bootle v. Blundell, 19 Ves. 528; Ashby v. Palmer, 1 Meriv. 296; Pow. Mort. by Coven, 69, 325.*

Here it is alleged and admitted, that the whole of the personalty, together with the real estate, devised by this testator to be sold for the payment of his debts, is wholly inadequate for that purpose. There being, then, an admitted deficiency of the devise for the payment of debts, it falls within the operation of the statute, and must be deemed, as against creditors, absolutely null and void. The case being thus cleared of all embarrassment by reason of that devise, it follows that the real estate of this deceased debtor must be dealt with, in all respects, as if he had made no provision what-