

or difficulties which had rendered it impracticable for these devisees, of themselves, to apply the estate of the deceased debtor to the payment of his debts, it may be permitted to stand; but it certainly cannot be suffered to operate so as to hinder or delay creditors in the recovery of their debts, any more than a mere voluntary mortgage, or sale made by an heir or devisee of himself, pending a suit against him, could be allowed to be of any avail, in preventing a then plaintiff creditor from obtaining a decree for a sale for the satisfaction of his claim.

It is clear, therefore, that this private Act of Assembly, so far as it has been presented as an obstacle to the relief prayed by this bill, can be of no avail, and must be regarded as utterly unconstitutional and void.

On taking a retrospective view of the various proceedings, which have been had, in relation to this estate, and the disposition which has been already made of some of it, for the benefit of the devisees and creditors of the deceased, it is sufficiently obvious, that to facilitate the further progress of the Court in this matter, it will be necessary to consolidate, and have them henceforth considered as one suit, covering all matters within reach of a creditor's suit, and of a bill filed by the legatees and devisees, for a distribution of the surplus after the payment of debts. And it is also obviously necessary, that these executors and trustees should, all of them, be called to an account. I shall therefore order sale, consolidate the cases, and direct an account to be taken.

Whereupon it is decreed, that the real and personal estate of William Campbell, deceased, yet remaining undisposed of, or so \*much thereof as may be necessary for the payment of his debts, be sold; that the trustee, if practicable, to sell the **242** the personal estate, and the real estate devised for that purpose, and the lands in Allegany Court, in the first instance: and if sales of the said property cannot be effected, or the proceeds thereof should be insufficient, then he shall sell the remaining real estate of the deceased; that John I. Donaldson be appointed trustee, to make the sale, &c. And it is further decreed, that the case of Edward Campbell and others against John McHenry; and the case upon the petition of Edward Campbell and others, be consolidated with and made parts of this case. And it is further decreed, that John McHenry, Edward Campbell and John I. Donaldson account, &c.

---

The trustee gave bond as required by this decree, and on the 18th of December, 1829, reported, that he had made some further sales of the deceased's estate, which sales were finally confirmed on the 27th of February, 1830. After which he reported, that he had, under the decree of the 12th of December, 1827, mortgaged a part of the estate of the deceased, which, no objection being made,