

creditor's suit here, on the ground of the insufficiency of the personalty, and to have the real estate of the deceased debtor sold for the satisfaction of his creditors, so as, in whole or in part, to save such surety harmless. (*d*)

(*d*) ARTHUR v. THE ATTORNEY-GENERAL.—This bill, filed on the 9th of December, 1800, by James Arthur and Daniel Perkins, states, that the late William Biggs died, leaving no known heirs; that the plaintiff Perkins, had administered on his personal estate, which was insufficient to pay his debts; that he left real estate for which an escheat warrant had been taken out, which the plaintiffs had caveated, (1785, ch. 78;) that the plaintiffs were bound as sureties of the deceased, and the debt not having been paid, they were still liable as such; and that a suit had been brought and a judgment at law obtained against the plaintiff Perkins. Whereupon, it was prayed, that the real estate might be sold to pay his debts; that his heirs, if any there were, might be notified, and that a subpoena might be issued to the Attorney-General; (1785, ch. 78; 1794, ch. 60, s. 6.)

Elizabeth Hopkins and Joseph George, the obligees, to whom the plaintiffs were bound as sureties for Biggs, were not made parties; nor was Charles Hackett, who had taken out the escheat warrant, made a party; but it appears, that on the same day the bill was filed, Hackett filed a petition, praying that he might be permitted to perfect his title; which, however, does not appear to have been in any way noticed by the Chancellor.

An order of publication was passed as required by the Act of 1794, ch. 60, s. 6, and published accordingly; and the Attorney-General having been served with a subpoena, appeared and answered. Upon which the case was submitted, and on the 8th of January, 1803, a decree for a sale in the usual form was passed, which directed notice to be given to the creditors of the deceased to bring in their claims, and a sale was made and reported accordingly.

HANSON, C., 7th June, 1804.—Ordered that the sale made by James Houston, as stated in his report, of the real estate of William Biggs, be absolutely ratified and confirmed; several of the creditors of the said Biggs having by writing, expressed their approbation of the said sale. Ordered, likewise, that the said trustee, for his whole trouble and expense incurred in the execution of his trust, be allowed the sum of £37 10s. 0d. Let the auditor of this Court state the application of the money arising from the said sale, allowing the said commission and costs of suit, to be taxed by the register.

Under the notice to creditors to bring in their claims, Elizabeth Hopkins and Joseph George, with nineteen others, brought in their claims; amongst whom the auditor made and reported a distribution of the proceeds of the sale, as directed. The Act of 1785, ch. 78, directs, in cases of this kind, that if the proceeds of the sale be "not sufficient to pay the whole debts, the money arising from such sale to be equally distributed among the creditors in proportion to their debts, without any preference."

HANSON, C., 7th September, 1805.—Ordered, that the principal money arising from the sale of the real estate of William Biggs, be applied according to the auditor's statement; and that the receipt in writing, of any person entitled agreeably to the said statement, shall be admitted, so far as the said person is entitled, in the room of so much money directed to be brought in by the original decree—and that any money paid or to be paid by the purchaser for