

itive legislative enactment, which declares, that the previous laws in relation to the sale of real estates held by infant heirs or de-

him, as his devisee; and had taken possession, and received the rents and profits thereof accordingly. Whereupon it was prayed the defendants Jesse and wife might account for the rents and profits of the real estate; that the defendants Susannah and James, might account for the personal estate of their respective testators, and that the real estate devised to Rachel might be ordered to be sold, &c.

The defendant Carey, by his answer, said that he had passed an account as executor, before the Orphans' Court, and distributed a large amount in payment of debts due from the firm of Parkin & McKenna, leaving considerable sums still due, &c.

The defendants Hollingsworth and wife, and Susannah Goodwin, by their answer, objected to the accounts of the defendant James Carey, as passed by the Orphans' Court, in many particulars; and averred that, if all the effects had been fully accounted for, and applied by him, there would have been assets sufficient to pay all; or, at least, leaving a small balance due; and they say they do not know, or admit, that the debts stated in the bill are due; and they put the plaintiffs upon the proof thereof. These defendants admit the other facts as set forth in the bill, &c.

A commission was issued to take testimony, and returned with sundry depositions, documents, and admissions of the parties; from all which, the indebtedness to the plaintiffs was established substantially as charged: but the insufficiency of the personal estates of the deceased debtors; or of the separate personal estate of Thomas Parkin, deceased, was in no other manner averred in the bill than as stated above, or shewn by the proofs, than by the accounts of the defendants Carey and Goodwin, which they had passed before the Orphans' Court.

HANSON, C., 30th December, 1803.—This cause standing ready for hearing, and being appointed, with notice to all parties, to be heard this day; and the counsel for the defendants being absent; and the cause being thereupon submitted by the complainant's counsel, the bill, answers, exhibits, depositions, and all other proceedings were, by the Chancellor, read and considered.

Whether or not, in case of a deficiency of assets in the hands of the executor or administrator, this Court can decree a sale of a real estate devolving on a person of full age, hath heretofore been considered doubtful. In fact, there has been no such decree in this Court. And in one case, where creditors, several years since, filed a bill against the heir of full age, who, by his answer, expressed his willingness to have the land sold for paying all the creditors, the Chancellor refused to execute the power. He has since often reflected on the subject, and thought that, in that case, he might be wrong. For, inasmuch as an executor or administrator is suable in this Court, on the ground of discovery, and land is, in this State, liable for all debts, as well as the personal estate, there seems no reason wherefore an heir should not be sued on the same ground. Indeed, this very case shews the propriety of this Court exercising the jurisdiction. Here is a dispute between the executor of one partner and the administrator of the other partner, and an heir and devisee, as well as between them all and the creditors: and if the creditors were referred to a remedy at law, it would be almost, if not altogether, impracticable to obtain it. But here, if the Chancellor be right in his present opinion, the remedy is easily attainable: all parties being compellable to account, in order to shew what is the amount of real and per-