

gether, in favor of an infant heir or devisee; and therefore, does no wrong in granting relief upon terms.

The interests of infants, *femes covert*, and persons *non compos mentis*, are always especially attended to, when brought before a Court of equity; but I have never understood that the course of justice could be arrested, or in any manner turned awry for their benefit. Their disabilities always excite sympathy, and suggest caution where their interests may be affected; and so far the equitable circumspection of the Court in regard to such persons, may be considered as affording to them a just ground to call for the most careful deliberation; and for its *ex officio* protection, so far as may be compatible with a duty to others, and an impartial administration of justice; but under no circumstances, have they been allowed to pervert any such claims to a special consideration and

519 *protection, into a means of impairing the rights of others. There are instances in which a remedy may be suspended in favor of an infant; but it is believed, there is no case in which a Court of justice is allowed, at its discretion, to withhold relief from a plaintiff who has established his claim, or to impose such terms upon him, as may greatly delay or endanger the loss of his whole legal right.

At the common law, there are many instances where, on an action being brought against an infant, the parol shall demur; or in other words, where the prosecution of the suit to judgment and execution shall be suspended, until the infant attains its full age. If an action of debt be brought by a bond creditor against an infant heir, in respect of real assets descended to him, the parol shall demur, until he attains his full age, even though the debt be clear and indisputable. The privilege of the heir himself, is however, in this respect, anomalous, and confined to the heir alone. It was allowed to him as well on account of his inability to defend himself, as also from an absolute deficiency of funds, arising from the nature of the feudal tenures, by which the whole estate, with its rents and profits, were given to the guardian in chivalry. This privilege was, at the common law, for some reasons not now appearing, extended indiscriminately to all heirs; and to cases where judgment having been obtained, and the defendant died before execution, the heir was within age; and in favor of the widow, and all the heirs in co-parcency during the infancy of any one of the parceners. *Co. Litt.* 290; *Markal's Case*, 6 Co. 4; *Plaskett v. Beeby*, 4 East, 485.

This legal privilege was distinctly recognized by one of our early Acts of Assembly; 1721, ch. 14, s. 2; and by another of them it has been expressly declared, that all persons under the age of twenty-one years, entitled to any hereditaments by purchase, shall not be obliged to answer any suit in relation thereto, any more or otherwise than they would be if they had become their right by