descent. 1729, ch. 24, s. 16. Hence it appears, that in all cases where an infant, who takes by purchase, might have had the privilege of causing the parol to demur, had he taken by descent, the like privilege shall be extended to him for the protection of the inheritance held by him as a purchaser. And it was also the practice of the land * office, under the Provincial government, to let everything stand in which an infant was concerned, **520** until he attained his full age. *Land Hol. Ass.* 145.

But in equity it is, in some respects, otherwise. The interests of an infant are so far taken care of, that no decree will be made against him, without allowing him to show cause after he comes of age; and the Court never pretends to change the nature of an infant's estate, or make that absolute which was defeasable, or to shield an infant, or his property, from any just stipulatiofi or legal liability which had been fairly incurred in a regular course of law. *Co. Litt.* 240; *Whittingham's Case*, 8 *Co.* 84; *Anonymous*, 2 *Cha. Ca.* 163; *Cary* v. *Bertie*, 2 *Vern.* 342. In all cases where the debtor, by his will, charges his real estate with the payment of his debts, any creditor may, in behalf of himself and the other creditors of the testator, by a bill against the executor, devisee, and heir, on establishing his claim, and the insufficiency of the personalty, have the real estate immediately sold for the payment of the debts notwithstanding the infancy of the heir; because such a devise breaks the descent, or because the real estate is considered as having descended to the heir as a mere trustee for the benefit of the creditors of the testator. *Cooke* v. *Parsons*, 2 *Vern.* 429; *Newton* v. *Bennet*, 1 *Bro. C. C.* 137; *Williams* v. *Whinyates*, 2 *Bro. C. C*, 399; *Shiphard* v. *Lutwidge*, 8 *Ves.* 29; *Birch* v. *Glover*, 4 *Mad.* 376. But where the real estate has not been so charged by the debtor; and has been suffered to descend to his heir, in such case the parol demurred in equity as at common law; and there could be no decree for a sale until the heir attained his full age. *Chaplin* v. *Chaplin*, 3 *P. Will.* 368; *Uredale* v. *Uredale*, 3 *Atk.* 117; *Powell* v. *Robins*, 7 *Ves.* 209; *Lechmere* v. *Brasier*, 2 *Jac. & Wal.* 290; *Brookfield* v. *Bradley*, 4 *Cond. Cha. Rep.* 297.

The disability of a *feme covert* is also regarded with kind attention by a Court of equity, and her interests are carefully protected. Yet she has never been indulged with any such privilege as that of having the proceedings suspended, or of having a day allowed her to shew cause after she became sole, as is granted to an infant; but if the plaintiff establishes his case, he has a right to demand an absolute decree against her and her estate. *Mallack* v. *Galton*, 3 *P. Will.* 352; *Powel Mortg.* 986.

At common law, as in equity, a person *non compos mentis* may be sued, and a judgment or decree obtained against him; he may be arrested and held to bail, or imprisoned for want of bail; but in equity, although he must himself be made a party, yet the