

no previous legislative enactment had expressly authorized a creditor to have his debtor's lands taken in execution and sold for the payment of a debt; although it is said that the Court of Chancery would, under some circumstances, accelerate the payment of the debt by ordering a sale of a moiety, or so much as might have been extended at law. *Stileman v. Ashdown*, 2 *Atk.* 609; *S. C. Amb.* 16. This statute removed all difficulty, in that respect, by putting simple contract and bond creditors upon the same footing, and by allowing the real estate to be seized and sold for the satisfaction of debt in like manner as personal estate.

Under this law it seems, however, to have been always considered here, that an heir should not be held liable to an action at common law by a simple contract creditor, merely in respect of the real estate descended, *Lodge v. Murray*, 1 *H. & J.* 499; *Gist v. Cockey*, 7 *H. & J.* 140, and therefore, as the statute had expressly declared, that the real estate should be liable to all debts in like manner as real estates were by the law of England liable to the satisfaction of debts due by bonds, it necessarily followed, that simple contract creditors could only obtain satisfaction from the real estate of their debtor, in the hands of his heirs or devisees, by a creditor's bill in Chancery, governed by rules here similar to those by which a creditor's bill by a bond creditor in England were regulated, and as this statute was avowedly made for the benefit of creditors, to enlarge, not to narrow their remedy, it must have left their title and their right to enforce payment, at their election, from the real or the personal estate, unimpaired and unprejudiced by any equity which then existed only between the real and personal representatives of the deceased; or which arose only out of the mode of administering the estate for the benefit of the heirs *alone. *Cox v. Callahan*, 2 *Bland*, 51, note; **46** *Long v. Baker*, 2 *Haywood*, 128. And as this statute deprived infants of none of their privileges, it followed, that if any one of the claimants of the real estate proposed to be charged, was a minor, the parol should demur for the benefit of all until he attained his full age. So too, as to all other particulars, not expressly or necessarily embraced by this statute, the then existing law remained in all respects unaltered.

After which it was declared by an Act of Assembly, that persons under age seized of any lands chargeable with the payment of money; and therefore, liable to a decree for a sale, should by direction of the Court of Chancery, on the petition of the person entitled to any money with the payment whereof the said lands were chargeable, convey and assure such lands in such manner as the Court should direct to any other person; and such conveyance should be as good and effectual as if such infants were at the time of full age; provided, that no direction, as aforesaid, should be given in case of any infants seized of any lands subject to the