

the real estate of a deceased debtor could be sold for the payment of his debts; and that as its provisions applied only to infant heirs; that, therefore, there was no method by which a simple contract creditor could obtain satisfaction by a sale of his deceased debtor's real estate in the hands of his adult heirs. *Tyson v. Hollingsworth*, 2 *Bland*, 327, *note*. To remove all misapprehension of the law, in this particular alone, it was in relation to this matter specially declared, "That the provisions of the fifth section of the said Act (1785, ch. 72,) and of the several Acts supplementary thereto, in relation to the sales of real estate, be extended to defendants of full age." 1818, ch. 193, s. 2. But the legislative enactment thus extended was manifestly made, as has been shewn, for the benefit of creditors; and therefore, if its language could be deemed ambiguous, certainly it could not be so construed as to curtail or embarrass their rights. And as it has been shewn, that there being assets in the hands of the personal representative could not prevent a specialty creditor from enforcing payment from the heir, who was bound to the extent of assets descended; and that there was nothing in the Act, thus extended, which could have been intended to diminish that legal right of specialty creditors, or to circumscribe its operation in favor of all creditors, in a Court of Chancery, since the adoption of the Statute of 1732; it necessarily follows, that, by having its provisions extended to defendants of full age, whatever of doubt or misapprehension may have been removed, no alteration whatever can have been made in the law, in this, or in any other respect, prejudicial to the interests of creditors.

Before we take leave of this subject, it may be well to advert to the case where there is no heir or devisee of the deceased, and the real estate of the deceased debtor reverts by escheat to the State—although in England and in Maryland, the State, upon the principles of the feudal system, took by escheat clear of the claims of

53 * general creditors, it seems to have been a matter of course to direct all creditors to be paid out of the confiscated or escheated property of their debtor. Yet as the State could not be sued or in any way coerced to make any such application of property, taken or fallen into its hands; *Jones v. Goodchild*, 3 *P. Will.* 33; *Bedford v. Coke*, 2 *Ves.* 116; *Burgess v. Wheate*, 1 *Eden*, 203; *Middleton v. Spicer*, 1 *Bro. C. C.* 202; *Megit v. Johnson*, 1 *Doug.* 542; *Robert Fuller's Case*, 14 *May*, 1680, *Land Record*, *lib. C. B.* 45; *John Webster's Case*, 27 *November*, 1680, *Land Records*, *lib. C. B.* 60, 102; it was declared, that in case any person should die seized of any lands intestate, without heirs and indebted, and not leave personal estate sufficient to pay his debts, any of his creditors might file a petition in Chancery suggesting such facts, and praying that such real estate might be sold for the payment of the debts of deceased; and the Attorney-General upon notice