

non-residents. After answer by the resident defendants, and publication of notice against the non-residents, one of the sisters, who, with her husband, had answered the bill, died, leaving minor children. The case was revived, and these minors made parties, and answered by guardian that they could not admit any of the facts stated in the bill. The original complainant having died before the hearing of the cause, the present complainant, his executor, was admitted to prosecute the suit in his stead. At the hearing of the cause, the following opinion was delivered by the Chancellor :]

THE CHANCELLOR :

This case, which originated on the equity side of Somerset County Court, has been argued by the solicitors of the parties, and submitted by agreement for the decision of this Court, upon the pleadings and proofs.

It is a creditor's bill, and it is not disputed that the claims of the suing creditor, and the inadequacy of the personal estate of the deceased debtor to pay his debts, are sufficiently shown by the admissions of the answer of the original defendants, all of whom were adult, and competent to bind themselves by such admissions at the time the answer was filed.

The circumstance, that one of the original defendants died after answering, leaving minor heirs, does not and cannot vary the effect of the answer, of which the complainant may now avail himself to the same extent as if no such death had occurred.

In addition to the averment of this indebtedness of Edward Parks to the complainant, and that said Parks left no personal estate, the bill alleges that no letters of administration have been granted thereon, and this averment also is admitted by the answer, and dispenses, as I think, with the necessity of producing this proof, which would otherwise be required ; and therefore the complainant would be clearly entitled to a decree for the sale of the real estate, unless some of the grounds of objection set up in the answer, and relied upon in the argument, are valid.

The first objection has reference to the frame of the bill, to which an exception has been filed. The exception is, that the