

## MUTATION OF REALTY TO PERSONALTY.

1. Real estate, in which an infant was interested, was sold under a decree of this court, which sale was finally ratified and confirmed by an order of court. But the purchaser afterwards failed to comply with the terms of sale, and the trustee applied for a resale under the act of 1841, ch. 216, and an order passed accordingly, after which and before the second sale, the infant died. **HELD—**

That the mutation from realty to personalty was not complete at the death of the infant, the purchaser not having complied with the terms of sale, and her share of the proceeds of sale passed as real estate to her heir at law. *Dalrymple vs. Taneyhill*, 171.

2. The mutation is complete when the sale is ratified, and the purchaser has complied with the terms of it by paying the money, if the sale is for cash, or by giving bonds, if the sale is on credit, and a concurrence of all these circumstances is necessary to effect the change. *Ib.*
3. A testator devised all his estate, "both real and personal," to his wife for life, and after her death directed his executor to "sell his real estate and pay to each of his three grandchildren" \$1,000 each, when they arrive at the age of twenty-one. **HELD—**

That this direction in view of a court of equity, operated a conversion of the real estate out and out into money. *Carr vs. Ireland*, 251.

## NEGROES AND SLAVES.

1. Where negro slaves are manumitted by deed or will, and the real and personal estate of the manumitter or testator are insufficient for the payment of his debts, his creditors may file a bill in equity making the manumitted slaves and all persons interested parties, and have an account taken of all the property of the deceased, and if it shall prove insufficient to pay his debts, the manumitted slaves may be decreed to be sold for that purpose, either for life or a term of years, as the circumstances or the nature of the case may require. *Allein vs. Hutton*, 537.

See **WILL AND TESTAMENT**, 12, 13.

## NOTICE.

1. To avoid a transfer or payment, under the 1st section of the act of 1834, ch. 293, *actual notice* must be brought home to the preferred creditor of the insolvency of the debtor; mere technical or constructive notice is not sufficient. *Brooks vs. Thomas & Jerome*, 15.

See **TRANSFER OF STOCK**, 1, 2.

**PRACTICE IN CHANCERY**, 44.

## ORPHANS COURT.

1. It is the duty of an executor to use dispatch in the settlement of the estate; the period allowed by law for that purpose is not a prescribed delay, but rather a restriction of it. *Conner vs. Ogle*, 425.
2. Where the same person is both trustee and executor under a will, and settles up the personal estate in the Orphans Courts, the balance, after such settlement, remains in his hands as trustee, and not as executor. *Ib.*