

come in, *pari passu*, with simple contract creditors; and moreover, that notwithstanding the infancy of the heir or devisees, the lands may, without allowing the parol to demur, be immediately sold for the benefit of all the creditors. (b) This construction and qualification of this English statute has been virtually affirmed by the act of assembly which authorizes the Chancellor, where lands are devised to be sold for the payment of debts or other purposes, and there is no person appointed to execute the trust; or the person appointed neglects or refuses to do so, to appoint a trustee, to order a sale, and to apply the proceeds accordingly. (c) And although the application under that act of assembly is always made *ex parte*, yet, if the object be to pay debts, it is treated, in all the subsequent proceedings, as a creditor's suit; such as ordering notice to be given to the creditors of the testator to bring in their claims and the like. (d)

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(b) *Newton v. Bennet*, 1 Bro. C. C. 136; *Lingard v. Derby*, 1 Bro. C. C. 311; *Powell v. Robins*, 7 Ves. 209; *Bailey v. Ekins*, 7 Ves. 322; *Shiphard v. Lutwidge*, 8 Ves. 26; *Leigh and Dal. Equ. Conver.* 10, 13.—(c) 1785, ch. 72, s. 4.—(d) *Ex parte Margaret Black*, 1 Bland, 142, note.

*Ex parte, BOONE*.—This petition was filed by Charles Boone and others on the 13th of May, 1791; it states that the late Stephen Boone, by his last will, had directed his lands to be sold, and the proceeds to be divided among the petitioners; but had appointed no person to make the sale. Whereupon it was *Decreed* that a trustee be appointed, &c. &c. who made and reported a sale accordingly.

25th January, 1792.—HANSON, Chancellor.—*Ordered*, that the report of Gabriel Duvall, trustee for the sale of the real estate of Stephen Boone, deceased, be approved; and that his proceedings, and the sale therein mentioned, be approved, ratified, and confirmed; unless cause shall be shewn to the contrary on or before the fifth day of next February term.

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No cause having been shewn, the case was submitted to the court.

9th June, 1792.—HANSON, Chancellor.—*Ordered*, that the sale be absolutely ratified, &c., and that the said trustee may assign any of the bonds by him taken, on the said sale, to such person or persons as is or are entitled to an assignment agreeably to the decree of this court, and the will of the said Stephen Boone.

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Upon the petition of Margaret Howard, and the exhibit, therewith filed, the case was again brought before the court.

9th June, 1795.—HANSON, Chancellor.—*Ordered*, that Gabriel Duvall, trustee for the sale of the real estate of Stephen Boone, deceased, do assign and deliver unto John Merriken, the guardian of the said Margaret Howard, appointed by the Orphans Court of Anne Arundel county, the bond taken by the said trustee, on the sale of the said estate, of Gassaway Watkins, with Zachariah Duvall and Ephraim Duvall, sureties for the principal sum of five hundred pounds, dated 22d July, 1791; and that the said trustee assign the said bond to the said guardian in trust for the said Margaret Howard, after having endorsed the same, if required, with the affida-