As to who may or must be made parties to a creditor's suit, the general rule is, that all persons having an interest in the object of the suit, ought to be made parties. But as this rule results from a consideration of the advantage which all persons must have in the entire settlement of the matter in litigation, it is founded on convenience; and is therefore made to yield in cases of necessity, or where it would be attended with any inconvenience which may be safely avoided; upon the ground of their being a common interest among creditors, which any one of them may sufficiently represent; and to avoid the great inconvenience of making all of them parties, any one has been allowed to file a bill for himself, and in behalf of all others of his co-creditors. But, as regards the defendants to a creditor's suit, the general rule would lead, in administering the assets of a deceased person, to taking notice of his credits, and following his estate beyond his personal representatives; and, consequently, to the bringing forward of his debtors; yet the practice of the court has prescribed bounds to the inquiry; and accordingly the rule is to stop short at the personal representatives of the deceased, unless the justice due to the plaintiffs, or the peculiar circumstances of the case, should require others to be called in. (*r*)

The personal estate being the primary and natural fund for the payment of debts, must be first resorted to, even for the satisfaction of debts due to the state, as well as to individuals, so far as it remains and can be found. (*s*) And if that estate be insufficient, there can, with propriety, be no other person than the executor or administrator of the deceased, made defendant to a creditor's suit. But if the bill alleges, or it can be shewn, that the deceased debtor left no personal estate, or that it had been exhausted or wasted, or by any means become insufficient for the payment of the debts of the deceased; and that he left real estate, then all the heirs and

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(*r*) Holland *v.* Prior, 7 Cond. Cha. Rep. 22.—(*s*) Magna Charta, c. 18; Kilty's Rep. 205; 2 Inst. 18 and 32; Evelyn *v.* Evelyn, 2 P. Will. 664, note; Mogg *v.* Hodges, 2 Ves. 52; Bootle *v.* Blundell, 19 Ves. 518; S. C. 1 Meriv. 220; The King *v.* Hopper, 1 Exche. Rep. 280; Brogden *v.* Walker, 2 H. & J. 294. Although by the law of some other countries, the lands as well as every other kind of property of the debtor are, as at this time in Maryland, alike liable for the payment of his debts, whether due by simple contract or otherwise; yet every where the personal or moveable estate of the debtor seems to have been considered as the primary fund, which was to be first applied in payment of debts, so far as it would go, in aid of the land or real estate of the debtor; Bowaman *v.* Reeve, Prec. Cha. 577; Anonymous, 9 Mod. 66; Vattel, b. 1, c. 7; Code Napol. by Barret, Introd. 328; 7 Petersdorff, Abr. 527, note.