

although it has been so construed as to allow simple contract creditors to obtain payment from the realty in no other way than by a creditor's suit in equity. The act of Assembly which authorizes the sale of land, with the consent of the guardian of the infant, does nothing more than, so far, to qualify the infant's privilege to have the parol to demur. The several acts of Assembly relative to the mode of proceeding by or against an infant, where a suit at law abates by death; and relative to the administration of assets, have made no alteration in the law as to the rights of creditors, or as to the mode of proceeding in a creditor's suit. The only material alteration of the pre-existing law made by the act of Assembly in relation to the sale of real estate descended or devised to infants, is that of having virtually abolished an infant's privilege of having the parol to demur in a creditor's suit. The provisions of the act of Assembly allowing creditors to obtain satisfaction from the escheatable estate of their debtor, do not affect their rights, or any mode of proceeding as against his heirs or devisees. Where the then defendants are entitled to both personal and real estate, the making of the personal representatives of the deceased debtor a party may be dispensed with.

In a creditor's suit, even if the bill should be dismissed as to the heirs, yet relief may be had against the administrator to the extent of the assets in his hands. The decree for a sale virtually puts the estate under the protection of the court; and, therefore, an injunction may be granted to stay waste. The mere fact of an infant's having attained his full age is not a ground for rehearing in a creditor's suit. Although an infant, who attains his full age pending a suit, may be allowed to come in, as of course, and demur, plead, or answer, yet he cannot be permitted to do so in a creditor's suit after a decree.

THIS bill was filed on the 15th of June, 1825, by *John Tessier* and *Samuel Smith* and *James A. Buchanan*, trading under the firm of *S. Smith & Buchanan*, against *John M. Wyse*, *William A. Wyse*, *Eliza Wyse*, *Margaretta Wyse*, *Edward Wyse*, *Nicholas H. Wyse*, *Matilda Wyse*, *Francis O. Wyse*, *Joseph Allender*, and *George Riston*. The bill states, that *William Wyse* was indebted to the plaintiffs *S. Smith & Buchanan*, in the sum of \$2,737 48, for sundry matters properly chargeable in account; that *William Wyse* made his will in the following words:

'Baltimore, 12th March, 1814, having at this perilous moment of my life committed myself to the care of Almighty God, whom I trust will receive my soul, I have only to request my affectionate wife and son *John*, in case of a deficiency of my estate to support and educate my children, that my real estate, and now known by the name of the Deer Park, be disposed of for the maintenance of said children, under the direction and management of my wife *Rachel*, and *John Wyse*.'

The bill further states, that *William Wyse* afterwards, on the first of April, 1814, died so indebted, seised and possessed of a large real and personal estate, leaving a widow *Rachel Wyse*, and these defendants *John M.*, *William A.*, *Eliza*, *Margaretta*, *Ed-*