dation for a sale of the realty for that purpose, it is there usually charged, in a creditor's bill, that the deceased's personal estate was more than sufficient to satisfy all his debts, as well those due by specialty as by simple contract, &c.; but, that if the personal estate be insufficient, that then the specialty debts be paid out of the deceased's real estate, that the executor account; that the real estate be sold, &c. And, consequently, in all such cases, if it be supposed, that there are personal assets which may be applied in aid of the realty, the issue, as to that fact, founded on this equity, must be presented by the heir; and be made up between him and the executor or administrator alone, as it clearly lays with the heir only to allege and shew that fact for his own benefit; which if he fails to do, the creditor, whose legal rights cannot in any way be impaired or controlled by the court, must be allowed to obtain payment by a sale of the realty. (*w*)

Thus stood the law of Maryland until the year 1732, when the British parliament passed an act, by which it was declared, 'that from and after the said twenty-ninth day of September, one thousand seven hundred and thirty-two, the houses, lands, negroes and other hereditaments and real estates, situate or being within any of the said plantations belonging to any person indebted, shall be liable to and chargeable with all just debts, duties, and demands of what nature or kind soever, owing by any such person to his majesty, or any of his subjects, and shall and may be assets for the satisfaction thereof, in like manner as real estates are by the law of England liable to the satisfaction of debts due by bond or other specialty, and shall be subject to the like remedies, proceedings and process in any court of law or equity, in any of the said plantations respectively for seizing, extending, selling or disposing of any such houses, lands, negroes and other hereditaments and real estates, towards the satisfaction of such debts, duties and demands, and in like manner as personal estates in any of the said planta-

(*w*) Wolstan *v.* Aston, Hard. 511; Anonymous, 2 Cha. Ca. 4; Popley *v.* Popley, 2 Cha. Ca. 84; Mead *v.* Hide, 2 Vern. 120; Tipping *v.* Tipping, 1 P. Will. 729; Edwards *v.* Warwick, 2 P. Will. 175; Knight *v.* Knight, 3 P. Will. 332; Anonymous, 9 Mod. 66; Williams *v.* Williams, 9 Mod. 299; Lutkins Leigh, Ca. Tem. Talb. 54; Galton *v.* Hancock, 2 Atk. 435; Stileman *v.* Ashdown, 2 Atk. 609; Walker *v.* Jackson, 2 Atk. 624; Daniel *v.* Skipwith, 2 Bro. C. C. 155; Rowe *v.* Bant, Dick. 151; Hamilton *v.* Worley, 2 Ves. jun., 63; Aldridge *v.* Wallscourt, 1 Ball & Bea. 312; 2 Fonb. 286; Will. Exrs. 1042; 2 Harr. Prac. Cha. 323; 2 Newl. Pra. Ca. 13; Willis' Eq. Plea. 222; Clanmorris *v.* Bingham, 12 Cond. Chan. Rep. 254.