

tions respectively are seized, extended, sold or disposed of for the satisfaction of debts.' (x)

This British statute was first introduced, used and practised under here about the year 1740, and has been continued in full force ever since. (y) The previous English statutes which gave the right to have lands taken in execution and delivered to the creditor at an extended annual value until the debt was paid, if not virtually repealed by this act, yet having given a remedy so inferior, or comparatively so ineffectual, were never resorted to after the introduction of this statute; no previous legislative enactment had expressly authorized a creditor to have his debtor's lands taken in execution and sold for the payment of the debt; although it is said that the Court of Chancery would, under some circumstances, accelerate the payment of the debt by ordering a sale of a moiety, or so much as might have been extended at law. (z) This statute removed all difficulty, in that respect, by putting simple contract and bond creditors upon the same footing, and by allowing the real estate to be seized and sold for the satisfaction of debt in like manner as personal estate.

Under this law it seems, however, to have been always considered here, that an heir should not be held liable to an action at common law by a simple contract creditor, merely in respect of the real estate descended, (a) and therefore, as the statute had expressly declared, that the real estate should be liable to all debts in like manner as real estates were by the law of England liable to the satisfaction of debts due by bond, it necessarily followed, that simple contract creditors could only obtain satisfaction from the real estate of their debtor, in the hands of his heirs or devisees, by a creditor's bill in Chancery, governed by rules here, similar to those by which a creditor's bill by a bond creditor in England were regulated, and as this statute was avowedly made for the benefit of creditors, to enlarge, not to narrow their remedy, it must have left their title and their right to enforce payment, at their election, from the real or the personal estate, unimpaired and unprejudiced by any equity which then existed only between the real and personal representatives of the deceased; or which arose only out of the mode of administering the estate for the benefit of the heirs

---

(x) 5 Geo. 2, c. 7.—(y) Davidson's Lessee v. Beatty, 3 H. & McH. 612.—(z) Stileman v. Ashdown, 2 Atk. 609; S. C. Amb. 16.—(a) Lodge v. Murray, 1 H. & J. 499; Gist v. Cockey, 7 H. & J. 140.