

and the attorney-general, upon notice of such petition being filed, shall appear to the same and defend, and the chancellor, being fully satisfied of the truth of the said facts, may order a sale by trustees of the real estate of such deceased person, or of so much thereof as may be thought necessary, to discharge his debts, for the benefit of his creditors, and if not sufficient to pay the whole debts, the money arising from such sale to be equally distributed among the creditors in proportion to their debts without any preference; and upon any certificate of survey being made and returned in consequence of an escheat warrant, any creditor of the deceased may enter a caveat to the same, and thereupon no patent shall issue until an examination had by the chancellor, and payment made to the creditor or creditors proving their debts to the satisfaction of the chancellor, and payment made to the creditor as aforesaid; and in case any person, having contracted in writing for the sale of any real estate, shall die seized intestate, and without heirs of the whole or half blood, in such case the person claiming a right of conveyance, in consequence of such contract, may file his petition in the chancery court, suggesting such contract, and praying a decree for conveyance, and the attorney-general, upon notice of such petition being filed, shall appear to the same, and the chancellor, being fully satisfied of the truth and validity of the contract, and that the petitioner has a just claim to a conveyance, may decree that the attorney-general shall execute a conveyance upon such terms and conditions as the chancellor shall think proper, and the consideration money, if any due from the person claiming a conveyance as aforesaid, shall be paid before conveyance to the treasurer of the western shore, to be applied, in the first place, to discharge the debts due from the deceased, and the balance to the use of this state.

By 1799, ch. 79, section 7, where land is escheated, or becomes the property of the state by the purchaser being an alien, or its having been confiscated, any person having a claim or lien thereon, or a title in equity, may bring a suit against the state, in law or equity, and if brought in the chancery court, the attorney-general shall be the defendant in behalf of the state, &c. but the state not to be burthened with costs.

II. AND BE IT ENACTED, That if the creditor of any person dying intestate, and without heirs as aforesaid, shall be out of the state, so that he or she hath not notice of the death of the intestate in time to enter a caveat as aforesaid, and the real estate of the deceased shall be escheated, this state will, upon application of such creditor, pay to the amount received by the state upon such escheat to the discharge of the just claim of such creditor, to be made appear to the satisfaction of the chancellor.

State will pay creditors in certain cases, &c.

III. This act to continue for five years, and until the end of the next session of assembly which shall happen thereafter.

Duration.

Continued, (with the principal act,) by 1790, ch. 60, to 30th October, 1797, &c. and by 1797, ch. 51, for seven years, &c.

C H A P. LXXIX.

An ACT for the relief of John Stevens, of Dorchester county, late collector of the tax. Lib. TBH. No. B. fol. 36.

Passed 11th of March, 1786.

C H A P. LXXX.

An ACT to alter and amend the law in certain cases. Lib. TBH. No. B. fol. 37.

BE IT ENACTED, by the General Assembly of Maryland, That no action, brought or to be brought, in any court of law in this state, shall abate by the death of either of the parties to such action, but upon the death of any defendant, in a case where the action by such death would have abated before this act, the action shall be continued, and the heir, devisee, executor or administrator, of the defendant, as the case may require, or other person interested on the part of the defendant, may appear to such action; and in case the action be brought to recover possession of any lands, tenements or hereditaments, and the proper person to defend doth not appear at the court at which the death is suggested, the plaintiff may issue a summon, returnable to the next court, directed to the heir or devisee of the deceased, or tenant in possession, or other proper person to defend in such action, as the case may require, or in case the action be brought to recover personal chattels, debt or damages, and the executor, administrator, or other proper person to defend, doth not appear to such action at the court at which the death is suggested, the plaintiff may issue a summon, returnable to the next court, directed to the executor or administrator of the deceased, or other proper person to defend such action, to appear; and upon any summon, issued as aforesaid, being served, the person or persons summoned shall appear to such action, either in proper person or by attorney, and if it shall appear to the court that a summon to appear and defend, taken out as aforesaid, hath been served upon the proper person or persons to defend such suit, and that such person or persons neglect or refuse to appear,

No action shall abate, &c.