

manner as if they, the devisees themselves, being competent to contract, had, of themselves, mortgaged the estate devised to them.

The heir of a deceased debtor, at common law, was only bound for the payment of the bond debts of his ancestor, because of the express terms of the obligation, and in respect and to the extent only of real assets descended; which liability of the heir has been, in Maryland, extended by statute in favour of all simple contract creditors, in like manner as to bond creditors. (g) By the common law, if a debtor, instead of suffering his real estate to descend to his heir, devised it to any person; or if the heir aliened the land, before an action was brought against him, the creditor was without remedy. But this injustice has been removed by a statute which declares, that all devises, as against creditors, shall be deemed fraudulent and void, and that the heir or devisee, after any such alienation, shall be liable to the value of the land so by him sold. (h) In consequence of which, and as mere bond or simple contract creditors have no lien upon the real estate of their debtor, the heir or devisee becomes personally liable to the value of the realty by him so aliened, leaving the land in the hands of a *bona fide* purchaser entirely free from their claims; (i) or such creditors may follow the

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(g) 5 Geo. 2, c. 7.—(h) Bac. Abr. tit. Heir and Ancestor F.—(i) Coleman v. Winch, 1 P. Will. 777. Mathews v. Jones, 2 Anstr. 506.

**CRAIG v. BAKER.**—This bill was filed by Robert Craig, on the 17th of September, 1770, against the administrator, heirs, and devisees of Henry Baker, deceased. It stated that the plaintiff and the late Henry Baker were the owners of a brig, and as partners had her sent on several voyages; that the plaintiff purchased Baker's half of the vessel for £650 0s. 0d.; and it was then agreed between them, that all their accounts should be fully and finally adjusted; but before they came to any settlement Baker died, having first made his will, by which he disposed of all his estate, real and personal, among his children; that his son Francis, who became his administrator, alleges that his personal estate is not sufficient to pay his debts; that the administrator has brought suit at law against this plaintiff for the recovery of £650 0s. 0d., the price of his intestate's half of the brig; and also, to recover the amount of certain protested bills of exchange, drawn on account of the partnership concern; that on a fair adjustment of accounts it will appear, that the late Henry Baker was greatly indebted to the plaintiff. Prayer for an account; for an injunction to stay the proceedings at law; and for general relief. An injunction was granted as prayed, and the defendants answered.

A commission was issued on the 18th of July, 1774, in the usual form, to audit and state an account. Under which the commissioners, on the 7th of May, 1785, returned an account, by which it appeared, that there was a balance due to the plaintiff of £963 3s. 3d. with interest thereon from the 22d of April, 1767, to the 22d of April, 1785.

The plaintiff, with leave, filed an amended bill, in February, 1786, the making other