

ingly, with a due proportion of interest that has been or may be received.

*William Gaither* and *Joshua Warfield*, for themselves and in behalf of the other creditors of *Nicholas Welch*, deceased, on the 25th of August, 1829, filed their petition in this case, in which they stated, that the late *Nicholas Welch*, being indebted to *Gaither*, died leaving real and personal estate; that administration having been granted on the personal estate of the late *Nicholas* to the petitioner *Joshua Warfield*, he, *Gaither*, sued *Joshua*, and obtained an absolute judgment against him; and that *Joshua* being also the surety of the late *Nicholas*, he, *Gaither*, had moreover sued and obtained a judgment against him on that ground. Upon which it was prayed that the petitioners might be allowed to come in as creditors, &c.

26th August, 1829.—BLAND, Chancellor.—The case with this petition having been submitted without remark the proceedings were read and considered.

It is admitted, that the judgments which this petitioning creditor *Gaither* recovered against the administrator of the late *Nicholas Welch* were absolute. This admission is alone sufficient to preclude him from any claim upon the real assets in the hands of the heirs of the deceased debtor; because, such judgments are conclusive evidence of a sufficiency of personal assets in the hands of the administrator to satisfy the claim. And that too as well between such creditor and the heirs of the deceased debtor, as between such creditor and the administrator of the deceased debtor. Because, if, notwithstanding such a judgment, the creditor were allowed to recover against the heir, leaving the judgment as against the administrator unimpeached, and it surely cannot be revised, impaired, or reversed in a court of equity, then the judgment standing as conclusive evidence against the administrator of a sufficiency of assets, the heir must be allowed, according to the doctrine of substitution, to take the place of such creditor, and to reimburse himself by proceeding upon the judgment against the administrator. (f) Which would be, in effect, to compel the parties to have recourse to a singular circuitry of remedy; or to divest a judgment of some of its legal consequences; or to deter-

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(f) *Clifton v. Burt*, 1 P. Will. 680; *Edwards v. Countess Warwick*, 2 P. Will. 175.