

hibited with the bill. "That Edward Parks died in the year 1845 intestate, &c., and that Sally Parks, the devisee for life, is still living," and it appears by the evidence that she lived until the year 1848, when she also died.

It is, therefore, quite clear, upon the showing of the bill, that not only Edward Parks did not die seized of the land devised to him by his father, but that he was not actually and in deed seized of it in his lifetime, the intervention of the life estate in the mother preventing it. But, it does not on this account follow, by any means, that it is not liable to be sold for the satisfaction of the claims of his creditors. The Act of Assembly, which authorizes proceedings in chancery to sell the real estate of a deceased debtor, who dies without leaving personal estate sufficient to discharge his or her debts, does not make it necessary that such debtor should have died *seized* of the real estate proposed to be sold. The language of the fifth section of the Act of 1785, ch. 72, is, "that if any person hath died or shall hereafter die without leaving personal estate sufficient to discharge the debts by him or her due, and shall *leave real estate*, which descends," &c.

Not that such debtor shall die seized of real estate, but that he or she shall die leaving real estate, or having title to real estate, which may be sold for the payment of the claims of the creditors, if the personalty be insufficient.

Now the bill in this case, after making the averment before recited, and after averring that the deceased, Edward Parks, left no personal estate from which his debts could be paid, alleges that the complainant is entitled to have his claims paid out of the real estate of the said Edward Parks in the hands of his heirs, or to which he may be entitled in remainder as aforesaid.

This allegation, I think, is quite sufficient to entitle the complainant to a decree for the sale of such real estate. It amounts substantially to an allegation that at the time of the death of Edward Parks, he was the owner of the remainder devised him by his father, after the determination of the life estate of the mother. Not that he was *seized* of such