

Passed December 22.

An ACT to enable the chancellor to direct a sale of the real estate of John Mitchell, late of Suffex county, in the Delaware state, deceased, for the payment of his debts.

Preamble.

WHEREAS it hath been represented to this general assembly, by the humble petition of James Bratten, John Mitchell and Cyrus Mitchell, executors of the last will and testament of John Mitchell, late of Suffex county, in the Delaware state, deceased, that the said John Mitchell died in the said state considerably indebted, and leaving real and personal estate, as well in the said state of Delaware as in the state of Maryland; that from the number of suits prosecuted against them, and the payment of debts, the personal estate of the said John Mitchell is almost entirely exhausted; and that sundry just claims and demands against the said executors yet remain to be satisfied, and cannot be discharged for want of a sufficiency of personal assets: And whereas it is also represented, that the said John Mitchell, by his said last will, devised his real estate, lying and being in the counties of Somerset and Worcester, within this state, to a relation in the kingdom of Ireland, who, by the laws of this state, is incapable to hold and enjoy the same, and afterwards died seized of the said real estate, leaving no lawful issue, or other person, in this state or elsewhere, capable by law to hold the same, whereby the said real estate hath become escheated to this state for want of heirs of the said John Mitchell: And whereas it is just and reasonable that the fair and lawful debts of the said John Mitchell, upon a satisfactory exhibition thereof, should be paid and discharged before the state shall interfere to take the benefit of such escheat; but for want of power to apply the said real estate to the payment of the debts, the said petitioners have prayed that an act may be passed to direct a sale of such estate, for this purpose: Therefore,

Chancellor, on application, to appoint trustees, &c.

II. *Be it enacted, by the General Assembly of Maryland,* That upon the application of any three or more of the most principal creditors of the said John Mitchell, by petition, to the chancellor of this state, stating the nature and evidence of their respective debts, it shall and may be lawful for the said chancellor to appoint three discreet and judicious persons, residing in the counties of Somerset and Worcester, or in either of them, as trustees to take the possession and charge of all the real estate, lands, tenements and hereditaments, of the said John Mitchell, deceased, lying and being in the respective counties aforesaid, or elsewhere in this state, and the same to manage, sell and dispose of, to the best advantage, according to the directions of the said chancellor; and the said trustees, upon receiving a certificate of their appointment, and before they shall proceed to act as such, shall appear at the next, or any succeeding session of the court to be holden for Somerset county which shall happen thereafter, and shall then and there enter into bond, with such security as the justices of the said court shall deem sufficient, to this state, in the sum of two thousand pounds current money, jointly and severally, in the usual form; the condition of which bond shall be such, that if the said trustees shall well and faithfully, in all respects, discharge and perform the trust reposed in them by this act, according to the true intention and meaning thereof, and in pursuance of the directions of the chancellor of this state, without fraud or delay, then the said bond shall be void, otherwise the same shall remain in force and virtue; and a certificate of the execution of such bond shall be endorsed thereon by any two of the said justices before whom the same shall be sealed and delivered, and thereupon the said bond shall be filed with the clerk of the county, and be by him forthwith recorded among the proceedings of the court, and be thereafter transmitted to the register of the court of chancery for safe custody; and a certified copy of such bond from the records of Somerset county, under the hand of the clerk, and the seal of his office, shall be a sufficient ground of action to any person or persons who shall be injured or aggrieved by the said trustees in the execution of their trust.

Who shall appoint a day to meet, &c.

III. *And be it enacted,* That the said trustees, after the qualification aforesaid, shall forthwith appoint a certain day, not less than thirty days thereafter, when they shall meet at the town of Salisbury, in the county of Somerset aforesaid, for the