

be safely assumed, that the Legislature can, by no act, take the property of an adult citizen from him and give it to another, for any purpose, with or without compensation; and that no adult citizen can be compelled to use, apply, or alienate his property in any way whatever merely with a view to his own benefit and advantage. The holding and the application of private property, at the pleasure of its owner, so it be not as a nuisance or made injurious to others, according to the fundamental principles of our government, are rights so absolute, that no power in the land can touch or control them in any degree whatever. Infants, it is clear, hold their property by the same kind of absolute and uncontrollable rights as adults. It is the duty of the State to protect all her citizens; but more especially her infants, for whom she is bound to provide maintenance and education, in case they should be without parents or pecuniary means. The State has a deep interest in the proper maintenance and education of her infants; and, consequently, it must be within the constitutional competency of her government to make any legal provision necessary to facilitate the application of the property of infants to such purposes, as well for her own * benefit as to prevent such infants from becoming idle paupers and a burthen to the community; and **205** therefore no law which provides for the preservation of their property, and the proper application of their estates to their maintenance and education, can be deemed an infringement of their rights.

An infant may, apparently, succeed to property which cannot, in strictness, be said to belong to him, because of the claims of others. The creditors of the ancestor from whom the estate descended, must be first paid before any part of it can be applied to the use of the infant heir. An Act of Assembly which facilitates the application of such an estate to the payment of the debts of its late owner, merely gives to it its proper direction; and therefore, instead of violating, affirms the right to it, as deduced from its deceased owner. Nor can any law which goes no further than to provide for the application of an infant's estate to his maintenance and education, be regarded as, in any respect, a violation of such infant's right of property. An infant is, in general, incompetent to contract; but he may, by contract, bind himself for his maintenance and education; and hence a legislative enactment, which facilitates such an application of his estate, co-operates with the infant's legally qualified right to contract, in discharge of a duty to himself, without trenching upon any of his rights.

The several tribunals of the judicial department of our government, have been framed and established with a view to the determination of matters in controversy between individuals. The Orphans' Courts have been entrusted with authority to appoint guardians for infants; and to see that such guardians perform