

After which, on the application of the administrator, James Boarman, the whole amount, so brought into the Court was paid to him; and thus this Court finally delivered itself from all further concern with the estate of the deceased lunatic.

BINNEY'S CASE.

PLEADING AND PRACTICE IN EQUITY INJUNCTIONS.—AMENDMENT.—POTOMAC RIVER.—EMINENT DOMAIN.—CANAL COMPANY.—STATUTORY CONSTRUCTION.

When attachment is in the nature of mesne process, the sheriff may take bail for the party's appearance; and on a return *cepi*, the sheriff may be ordered to bring in the body; or he may sue upon the bail bond.

It is the better mode, in most cases, to decide on the motion to dissolve the injunction, before an attachment for the breach of it is disposed of.

The Court frequently refuses an injunction where it acknowledges a right, when the conduct of the party complaining has led to the state of things, that occasions the application; but, in most cases, to obtain an injunction, it is sufficient, that the question is important and doubtful.

In some cases the injunction is granted by a special order, allowing a motion to dissolve, to be heard at an early day.

The making of a substantial amendment dissolves the injunction of course, unless expressly saved. (a)

An answer, which purports to be the answer of several: but is not sworn to by all of them, may be taken off the file; or considered as the answer of him only who has sworn to it.

A defendant may sufficiently answer, by adopting the answer of his co-defendant.

No one is a party to the suit against whom no process is prayed.

A misnomer may be waived, but if relied on, it is fatal.

Where the legal capacities of parties, as charged, are different; such capacities must be considered as if they were different persons. (b)

A corporation can only be called on to answer by its proper name.

All corporations are subject to a visitatorial power; or to some legal control.

In general, a corporation may alien all, or any of its property at pleasure.

A natural mill-site described.

It is not illegal to erect a new mill near to, and in rivalry of an old one.

The power conferred on the Potomac Company in regard to mills considered. (c)

The nature and application of a presumption of right as to certain mill-sites.

The Potomac River belongs entirely to Maryland—above tide, it was not originally deemed a navigable river; but has been made so, in a qualified manner, by law.

(a) Cited in *Keerl v. Keerl*, 28 Md. 161.

(b) Approved in *Tartar v. Gibbs*, 24 Md. 337; *Ducker v. Belt*, 3 Md. Ch. 22.

(c) See *Binney v. Canal Co.* 8 Peters, 201.