

CASES DECIDED
IN THE
HIGH COURT OF CHANCERY
OF
MARYLAND.

WALSH v. SMYTH.

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INJUNCTION.—CHANCERY PRACTICE.—AMENDMENT OF BILL.—REHEARING.

No injunction can be granted to stay proceedings at law between the same parties, without bond and surety, by the plaintiff in equity to the plaintiff at law, to prosecute the suit in equity with effect. (a)

Where the suit abates by the death of the plaintiff, the injunction not being thereby dissolved, a dissolution can only be obtained by notice to the representatives of the deceased; or, if they are non-residents, or unknown, by notice entered on the docket: or in a course of proceeding between the surviving parties, the suit not having been noticed for some time by the representatives of the deceased.

Where in pursuance of a contract for the sale of land, several bonds were given for the payment of the purchase money, they were regarded as one contract; and the consideration, on being impeached, having been sustained in favor of a responding defendant, it was held, to enure to the benefit of a defendant against whom, for not answering on warning by publication, the bill might have been taken *pro confesso*.

But although as regards an inseparably joint cause of suit, a good defence by one defendant must enure to the benefit of all; yet, as regards plaintiffs, where there is a ground of relief available for all, the neglect of any one to take advantage of it, will not prevent any others of them from benefiting by it.

The nature of an amended bill; how leave to amend may be obtained; and in what manner the amendment should be made. (b)

On an application for a rehearing, it is not enough to shew that injustice has been done, but that it has been done under circumstances which authorize the Court to interfere.

(a) See *Salmon v. Clagett*, *post*, 125.

(b) Cited in *French v. Hay*, 22 Wallace, 246.