GEORGE W. MATTHEWS ET AL
vs.
WILLIAM D. MERRICK.

MARCH TERM, 1848.

[PRACTICE IN CHANCERY.]

THE process of *subpœna scire facias* is the proper and appropriate proceeding to revive a decree which has abated by death, or where a female complainant has married, or the decree has become dormant by lapse of time.

A promise to allow a defendant a credit upon a decree against him by which he was induced to waive his right of appeal, rests upon a good and valid consideration.

An unqualified offer by complainants to allow the defendant a credit upon a decree in their favor, which offer was the result of negotiations previously had between the parties to settle the matters in dispute, in a friendly manner, cannot afterwards be withdrawn by them.

[The facts of this case are sufficiently stated in the Chancellor's opinion.]

THE CHANCELLOR:

I do not think the objection taken to the form of the proceeding adopted in this case can be sustained.

The process of *subpœna scire facias* appears to be the proper and appropriate proceeding to revive a decree which has abated by death, or where a female complainant has married, or the decree has become dormant by lapse of time. 1 *Bland*, 545; 3 *Bland*, 326.

Upon the merits of the case, however, there is certainly some difficulty, though I am of opinion that to some extent at least the merits are with the defendant, and that he is entitled to a credit upon the decree.

It appears that two bills were filed in this court against the defendant on the 2d of August, 1833. In one he was called upon to account as the executor of Rose Matthews, and in the other as administrator, *de bonis non*, of Luke F. Matthews, and the parties, complainants for the most part, were the same. Luke F. Matthews and Rose Matthews were the father and mother of the complainants, and the defendant was their brother-in-law, having married their sister.