

*Gilpin v. Southampton*, 18 Ves. 469; *Drewry v. Thacker*, 3 Swan. 544; *Clarke v. Ormonde*, 4 Cond. Cha. Rep. 54; or should there be any improper delay by the original plaintiff, any one, who has been allowed to come in as a creditor or party, may be permitted to take his place, and prosecute the suit. *Creuze v. Hunter*, 2 Ves. Jun. 165; *Sims v. Ridge*, 3 Meriv. 458; *Powell v. Wallworth*, 2 Mad. Rep. 183; *Edmunds v. Ackland*, 5 Mad. 31. For, although a plaintiff, who sues on behalf of himself and all other persons of the same class, as he acts upon his own mere motion, and at his own expense, retains the absolute dominion of the suit, until another has been admitted as a co-plaintiff, or until a decree to account, and may dismiss the bill at his pleasure; yet, after another has been admitted as a co-plaintiff, or a decree has been passed, he cannot, by his conduct, deprive other persons of the same class, who thus become actors, of the benefit of the suit if they think proper to prosecute it. *Lashley v. Hogg*, 11 Ves. 602; *Dyot v. Anderton*, 3 Ves. & Bea. 177; *Handford v. Storie*, 1 Cond. Cha. Rep. 414; *Strike's Case*, 1 Bland, 85.

I am, therefore, of opinion, that this is, in effect, and may properly be considered as a creditor's suit; although it is not expressly alleged to have been instituted for the benefit as well of the creditors of the testator, as of these plaintiffs; and that the order directing notice to be given to the creditors of the late Philip Hammond to bring in their claims, was, in every respect, proper; and must have the effect and operation of allowing a satisfaction to be awarded to those creditors who shall come in as thus warned, and of making a distribution of the residue of the estate among the respective claimants. And, moreover, that the injunction granted on the 29th of September last, to prevent the creditor, Ridgely, from proceeding at law on the judgment he had obtained against these executors, was proper and well warranted by the nature of the case.

In order to ascertain who are creditors, and also, where necessary, who are the next of kin of the deceased, the Court directs public notice to be given by advertisements in newspapers, or \* otherwise, subject to the restrictions of the Act of Assembly, 1826, ch. 178, in those quarters where creditors and next of kin are most likely to be found, calling on them to come in and file the vouchers of their claims in the Chancery office, usually within four months from the day appointed for the sale of the real estate. And when that time has expired, it being considered that the best possible means have been taken to ascertain the parties really entitled, the auditor is then, and not before, allowed or directed to make a statement and distribution of that amount of the personalty, if any; and of the proceeds of the sale of the realty, after the sale has been finally ratified, among the claimants. It is, however, obvious, that the parties really entitled may never have