

On the 1st of March, 1825, this plaintiff filed another bill against this defendant, in which he stated the facts in relation to the mortgage as in the before mentioned bill; and that the mortgaged land was the property of the defendant, whose husband was dead intestate, and that she had been appointed administratrix of his personal estate, including his chattels real; that on the non-payment of the mortgage when due, the defendant was to have a lot of ground in the City of Annapolis sold, and the proceeds applied in satisfaction of the debt, which had not been done; and that the whole mortgage debt, with one year's interest, was then due, upon which he prayed a sale, &c. In this bill there was no allusion to that filed on the 15th of January, 1825.

On the 9th of July, 1825, the defendant put in her answer, in which she admitted the execution of the mortgage; but averred that it had been obtained from her husband, who was an illiterate and, unhappily, an intemperate man, by great importunity and undue influence; that there were certain conditions and stipulations in relation to certain lots purchased from the plaintiff by her late husband, and which lots formed the consideration for which the mortgage had been given, which had not been complied with; that the plaintiff having no title to those lots, the consideration of the mortgage had therefore failed; and that the plaintiff had, on the 15th of January, 1825, filed his bill, praying a sale of the mortgaged property, which was then depending, and therefore she relied on the pendency of that suit as a bar to this.

The defendant, by her petition on oath, stated, that by a mistake and misapprehension, she had, in speaking of the character of her late husband in her answer, said that he was an intemperate man; since which, it had occurred to her, that the expression might be construed to import the excessive use of spirituous liquor, which was not her meaning; but that what she said was meant to be \*expressive of his violent character and intemperate passions; that no commission had been issued, nor any proofs **463** taken. She, therefore prayed leave to amend her answer in this particular.

BLAND, C., 18th August, 1825.—It appears that the defendant has thought proper to correct her defence as regards the character of her deceased husband. Giving his character in her answer, she has used the word intemperate, from which it may be inferred that he was either excessive in meat and drink, or that he was passionate and ungovernable. The word intemperate, according to the most approved authorities, conveys both of those meanings. The defendant now alleges, by her petition, that the latter was the sense in which she intended to use of the word. Therefore, it is ordered, that the defendant be, and she is hereby permitted to file a supplemental answer, correcting the mistake, as prayed; leav-