

Court, of a creditor's suit, in which it was ever proposed to make a co-obligor of the deceased debtor a party to the suit. But if, in addition to the family of representatives of the deceased debtor himself, the families of his co-obligors, were, in like manner, allowed, or required to be brought before the Court by each of the creditors to whom they were bound, the parties would be innumerable, abatements would be continual, the suit would be interminable, and justice suspended and withheld forever.

This general rule, that all persons interested must be made parties, is, however, made to yield where necessary in the instance either of plaintiffs or defendants; since the rigid enforcement of it would lead to perpetual abatements, and in many cases amount to an absolute denial of justice. In all such cases the rights of the omitted parties are held to be established or bound by the decree; and although, in England, an inconvenience arises, as to the omitted parties, where a specific performance, or a conveyance may be required of all; *London v. Richmond*, 2 Vern. 422; *Meur v. Maltby*, 2 Swan. 284; *Newton v. Egmont*, 6 Cond. Cha. Rep. 346; yet even that difficulty has been, in a great measure, removed by our Act of Assembly which declares, that in all cases where a decree shall be made for a conveyance, release, or acquittance, and the party shall neglect or refuse to comply therewith, such decree shall stand, be considered, taken, and have the effect of the conveyance, release, or acquittance so ordered. 1785, ch. 72, s. 13; 1826, ch. 159.

Hence, as it would be difficult or impracticable, and therefore is * not necessary to bring all the co-obligors of the deceased before the Court; it is manifest, that these principles can **525** derive no support from this rule which requires every one interested to be made parties, to the end that complete justice may be done among all.

But this general rule which requires each debtor, bound by a joint and several obligation to be brought before the Court, although it may, to a certain extent, be well founded as to cases where a single creditor sues his living debtors only, or sues one of his joint debtors together with the representatives of another, who is dead, for the recovery of no more than his own particular debt; yet it cannot be applied to a suit, the especial object of which is to have the whole estate of the deceased sold for the payment of his debts; or so much of it as may be necessary for that purpose. A creditor's suit, or a bill which presents a case which requires to be treated as a creditor's suit, does not profess to be a demand of payment by a single creditor for himself alone; but is a call upon the Court to cause the assets, real and personal, of a deceased debtor to be accounted for and administered in due course of law for the benefit of all the creditors of the deceased. This is the nature of a creditor's suit according to the English law as well as