

MORTGAGE.

1. Under a *fiery facias* at law against the mortgagor, the purchaser at the sheriff's sale of the equity of redemption for less than the mortgage debt, takes it as incumbered with the residue thereof. *Worthington v. Lee*, 642.
2. A mortgagor who has not been legally divested of his whole interest must be made a party. *Ib.*
3. A mortgagor who has an interest in stating the account, or from whom any discovery may be drawn may be made a party. *Ib.*
4. Although this Court cannot, in a suit upon the mortgage, after a sale of the mortgaged property, pass a decree for the payment of the balance thus shown; yet, if the mortgagor be dead, the plaintiff may so amend his bill as to have it treated as a creditor's suit. *Ib.*
5. It is not necessary to make the personal representative of the mortgagor a party to a bill to foreclose or sell; but upon the death of the mortgagee it is necessary to make both his heirs and personal representatives parties. *Ib.*

See DEBTOR AND CREDITOR, 50, 80, 81, 82.

MUNICIPAL LAW.

See STATE.

PARENT AND CHILD.

See INFANT, 8, 12.

TRUSTS AND TRUSTEES, 20.

PARTITION.

See TRUSTS AND TRUSTEES, 3, 4.

PARTNERSHIP.

See DEBTOR AND CREDITOR, 28.

PLEADING.

1. A plaintiff cannot be permitted to split up and multiply his causes of action; and therefore, if he knowingly withholds a part of his claim until after the decree for a sale, it will be rejected; but without prejudice. *Welch v. Stewart*, 32.
2. A plaintiff must state in the bill such facts as are necessary to entitle him to relief; and also shew why he may ask that relief of a Court of equity. *Townshend v. Duncan*, 40.
3. Where the case set forth in the bill is such as to entitle the plaintiff to relief, the Court may have further inquiries made by the auditor, so as to adapt the relief to the peculiar nature of the case. *Ib.*
4. Where an infant takes as devisee, it is not necessary to charge in the bill that he received the rents and profits; because it is the duty of his guardian to take care of his estate. *Ib.*
5. An answer, which purports to be the answer of several, but is not sworn to by all of them, may be taken off the file; or considered as the answer of him only who has sworn to it. *Binney's Case*, 95.
6. A defendant may sufficiently answer, by adopting the answer of his co-defendant. *Ib.*
7. No one is a party to the suit against whom no process is prayed. *Ib.*
8. A misnomer may be waived, but if relied on, it is fatal. *Ib.*
9. Where the legal capacities of parties, as charged, are different; such capacities must be considered as if they were different persons. *Ib.*