

The petitions will not, therefore, be dismissed as to Stewart, but will stand over, with liberty to amend, by bringing the insolvent trustee of Stewart before the court.

[No appeal was taken from this order.]

<p>BOYD AND HANCE vs. ALEXANDER HARRIS ET AL. MACKALL HARRIS vs. LAVELLE AND WIFE. CONSOLIDATED.</p>	}	SEPTEMBER TERM, 1849.
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[CREDITORS BILL—DECREE FOR AN ACCOUNT—INJUNCTION.]

A DECREE for an account in a suit, by one or more creditors against the executor, either for themselves, or on behalf of themselves and all other creditors, is for the benefit of all, and in the nature of a judgment for all, and from the date of such decree, an injunction will be granted upon motion of either party, and upon a due disclosure of assets to stay all proceedings of any creditor at law.

In order, however, to prevent abuse by connivance between an executor or administrator, and a friendly creditor, the practice is, to grant an injunction only when the answer or affidavit of the executor or administrator states the amount of the assets, and upon the terms of bringing the assets into court, or obeying such other order of the court, as the circumstances of the case may require.

The power of this court to grant injunctions to restrain creditors from proceeding at law after a decree for an account, is not confined to cases in which the application is made by the executor or administrator, but extends to applications made by the heir, or by another creditor, or a common legatee, or perhaps by a residuary legatee.

Where judgments at law, upon which executions have issued and been levied upon lands are enjoined; after the dissolution of the injunction, nothing more is necessary to authorize the sheriff to sell, than writs of *venditioni exponas*. The lands are to be regarded as in *custodia legis*, and the death of the defendant in the judgments after execution had issued and been levied, does not render a *scire facias* necessary, against his heirs or terretenants.

The courts always observe great caution in taking property out of the hands of a sheriff, held by him under execution, and the case of *Alexander vs. Ghiselin*,