LEVI HUGHES, ADM'R OF JOSIAH HUGHES
vs.
MARY JONES, ADM'X DE BONIS NON C. T. A. OF JESSE HUGHES.

JULY TERM, 1851.

[APPLICATION FOR REHEARING—BILLS OF REVIEW—CHANCERY PRACTICE.]

THERE can be no doubt of the power of the court to grant applications to rehear causes, and for liberty to file supplemental bills in the nature of bills of review, upon the ground of new matter discovered since the decree. The regular mode of presenting such application is by petition.

It is equally clear, that these applications address themselves to the sound discretion of the court, and do not rest upon a foundation of strict right, which may not be disregarded.

The court is at liberty to look into all the circumstances of the case, and if, upon full consideration of them all, it comes to the conclusion, that opening the decree and rehearing the cause, would be productive of mischief to innocent parties, or is for any other reason inexpedient, it may refuse to do so, though the facts, if admitted, would vary the decree.

The qualification to the rule entitling a party to a bill of review, upon the discovery of new matter, subsequent to the period when it could have been used, that the matter must not only be new, but such as the party could not have known by the use of reasonable diligence, is as firmly settled as the rule itself.

Any laches, or negligence, by the party making the application, will destroy his title to this kind of relief.

This case had been pending for nearly eleven years—a great amount of testimony had been taken, and at great expense, and with the consent of both parties, had been submitted to the court after full argument by counsel. The witness, whose newly discovered testimony is now sought to be introduced, lived in the family of the uncle of the party making the application, from, and before, 1815, till 1821, and did not remove from the county where the cause originated, until long after its pendency, and has since resided in the city of Baltimore, and the petition does not state, that by the use of reasonable diligence, the knowledge of the new matter might not have been acquired in time to be used when the decree passed. HELD—

That, under these circumstances, it would be contrary to the settled rules of the court upon this subject, to grant the application for a rehearing.

It is better that individual injury should sometimes be inflicted, than that rules established to prevent general mischief, should be broken down.

[The opinion of the Chancellor, delivered at the final hearing of this cause upon its merits, and which also contains