

that they proceed no further with said appeal, without the leave of this court first had and obtained.

JOHN JOHNSON, *Chancellor.*

WILLIAM SCHLEY for the Petitioner and for the Defendant, Kerr.

GRAFTON L. DULANEY against the Petitioner and for Complainants.

SAMUEL ELLICOTT, JR. ET AL. }  
 VS. } JULY TERM, 1850.  
 THOMAS ELLICOTT ET AL. }

[CHANCERY PRACTICE—LAW OF DESCENTS AND DISTRIBUTIONS.]

PARTIES having conflicting interests, each claiming the title to the property in dispute to be in himself, cannot unite as plaintiffs, and a bill containing an averment that one of the plaintiffs is entitled, and that if he is not his co-plaintiff is, cannot be supported.

The proper mode by which such an objection to a bill can be taken advantage of, is by a demurrer.

Where a party dies intestate, and without issue, leaving an uncle and the children of uncles and aunts his next of kin, his whole estate, real and personal, by the act to direct descents of this state, descends to, and becomes the property of the uncle, to the exclusion of his other relatives.

[The complainants in this case, were Samuel Ellicott, junior, Elias Ellicott, Philip T. Ellicott, John A. Ellicott, Andrew Ellicott, Andrew Ellicott, jr., Benjamin Ellicott, Benjamin H. Ellicott and George Ellicott, all children of uncles of the whole or half blood of Charles T. Ellicott, deceased, whose property is the subject of controversy in this suit, and who died without issue, leaving the defendant, Thomas Ellicott, his uncle, and the complainants, and others, children of his deceased uncles and aunts, his sole next of kin, surviving him. All the remaining facts of the case necessary for an understanding of the opinions of the Chancellor, are therein stated.