

the object of the bill is not merely to establish any existing priorities among them as creditors. (*j*) A mortgagee or a vendor holding an equitable lien, claiming merely as such, has no common interest with the creditors at large; and therefore, cannot be allowed to represent them by suing on their behalf, and having them called in to participate in a suit, the sole object of which is to obtain the benefit of such a lien, by which the whole subject in controversy is claimed, and may be entirely borne away. (*k*) As where the plaintiff alleged, that he was the vendor of a tract of land, for which a part of the purchase money was still due, which land had descended to the defendants as heirs of the vendee; and that the personal estate of the deceased purchaser was insufficient to pay his debts. The truth of all which was admitted; and the administrator by his answer prayed, that the balance of the proceeds of sale, after paying the plaintiffs, might be put into his hands to be applied to the payment of the debts of the deceased. But this prayer of the administrator was rejected; upon the ground, that no sufficient foundation had been laid to authorize the court to treat the case as a creditor's suit, and to assume the administration of the assets of the deceased for the general benefit of his creditors. (*l*)

But, in so far as a mortgagee or the holder of a vendor's lien has a claim beyond the extent of such lien; because of the deficiency of the premises to pay the debt; or because of some other claim, in addition to such debt, which there is not a sufficiency of personal estate to satisfy, he may, in respect of such claim, sustain a creditor's suit by thus blending two distinct causes of suit, in only one of which the other creditors have a common interest. As where a vendor, in addition to a balance of the purchase money, set forth a large claim as due to him on another account, to pay which he alleged, that the personal estate of the deceased was insufficient; the case was treated as a creditor's suit; because, as regarded such additional claim the plaintiff had an interest in common with the other creditors who he undertook to represent; and for whose general benefit it was necessary that the court

---

(*j*) *Newton v. Egmont*, 6 Cond. Cha. Rep. 265; *Calvert on Parties*, 220.—(*k*) *Sumner v. Kelly*, 2 Scho. and Lefr. 398; *Burney v. Morgan*, 1 Cond. Cha. Rep. 185; *Gray v. Chaplin*, 1 Cond. Cha. Rep. 454; *David v. Grahame*, 2 H. & G. 94.—(*l*) *Ellicott v. Welch*, ante 242.