

after such decree, the executor suffers judgment by default; (g) although so far as a judgment may affect the executor's own property, the court will not interfere to protect him. (h) And if a bond creditor has got a judgment against the executor or heir, before the decree, then after the decree, although such creditor may come in and prove accordingly, as a judgment creditor, against the personal, or the real estate in the hands of the executor or heir; yet the court will, on application, grant an injunction to prevent him from taking out execution against the assets. (i)

The principle upon which an injunction rests in such cases, is, that substantially, a bill by a creditor, in behalf of himself and all others; or a suit by any one, in which all the creditors may be represented, and allowed to come in to obtain satisfaction, is considered as making all of them parties to it; and that the decree is in the nature of a judgment for them all; and, therefore, the court, to prevent difficulty, confusion, and injustice; and to sustain its jurisdiction, thus assumed over the administration of the estate, will never permit another suit to be instituted for the same object, with the same parties, and directed to the same relief. If the relief in the first suit can be extended; if expense can be saved by incorporating with it any proceeding which will avoid the necessity of a second bill, there is an obvious propriety in not permitting another suit to go on. But a second suit may be rendered necessary either, by collusion in the former suit; or by its having left out some principal matters of charge; or by its having omitted, from ignorance or negligence, some important ground of relief. (j)

Such an injunction may, however, in some cases be made an instrument of fraud and injury to the whole body of the creditors, by persons, who have more interest in forbearing than urging their demands against the representatives of the deceased, so managing it as to leave the representatives in almost as undisturbed enjoyment of the assets as before the bill was filed. To prevent such an abuse of its authority, the court, when asked for such an injunction, may look into the answer of the executor or administrator and see what amount he admits to be in his hands; or if he has not there stated

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(g) *Terrewest v. Featherby*, 2 Meriv. 480.—(h) *Terrewest v. Featherby*, 2 Meriv. 480; *Drewry v. Thacker*, 3 Swan, 529.—(i) *Surrey v. Smalley*, 1 Vern. 457; *Drewry v. Thacker*, 3 Swan. 429; *Clarke v. Ormonde*, 4 Cond. Cha. Rep. 54; *Price v. Evans*, 6 Cond. Cha. Rep. 234.—(j) *Coysgarne v. Jones*, Amb. 613; *Law v. Rigby*, 4 Bro. C. C. 60; *Clarke v. Ormonde*, 4 Cond. Cha. Rep. 47; *Pickford v. Hunter*, 6 Cond. Cha. Rep. 342; *Calvert on Parties*, 222.