otherwise, it would be impossible, or improper, or unsafe, according to the reasons of the principles of the court to decide upon the relative equities of the deceased debtor whose representatives were then before the court and his co-obligors; without compromiting the interests of some, or doing gross injustice to the creditor.

Under our system of partible inheritances the difficulties which beset a creditor's bill, by which it is necessary to bring before the court a large family of heirs and devisees of a deceased debtor, together with his executors or administrators, have been found to be so very great, that it has been attempted to remedy the evil by requiring the heir at common law alone to be served with process, and allowing all the others to be called in, by a general publication, and to appear or not as they might think proper. (*z*) There is, however, no instance to be found in the English books, nor among the records of this court, of a creditor's suit, in which it was ever proposed to make a co-obligor of the deceased debtor a party to the suit. But if, in addition to the family of representatives of the deceased debtor himself, the families of his co-obligors, were, in like manner, allowed, or required to be brought before the court by each of the creditors to whom they were bound, the parties would be innumerable, abatements would be continual, the suit would be interminable, and justice suspended and withheld forever.

This general rule, that all persons interested must be made parties, is, however, made to yield where necessary in the instance either of plaintiffs or defendants; since the rigid enforcement of it would lead to perpetual abatements, and in many cases amount to an absolute denial of justice. In all such cases the rights of the omitted parties are held to be established or bound by the decree; and although, in England, an inconvenience arises, as to the omitted parties, where a specific performance, or a conveyance may be required of all; (*a*) yet even that difficulty has been, in a great measure, removed by our act of assembly which declares, that in all cases where a decree shall be made for a conveyance, release, or acquittance, and the party shall neglect or refuse to comply therewith, such decree shall stand, be considered, taken, and have the effect of the conveyance, release, or acquittance so ordered. (*b*)

Hence, as it would be difficult or impracticable, and therefore is

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(*z*) 1797, ch. 114; Kilty *v.* Brown, ante 222.—(*a*) London *v.* Richmond, 2 Vern. 422; Meux *v.* Maltby, 2 Swan. 284; Newton *v.* Egmont, 6 Cond. Cha. Rep. 346.—(*b*) 1785, ch. 72, s. 13; 1826, ch. 159.