

The plaintiff *Robert Walsh* does not ask for a rehearing, and it is perfectly manifest, that he must be fully sensible of his not having a single shadow of a pretext to complain of having been taken by surprise by this decree. After a lapse of thirty-three years since the commencement of this suit by him, he surely cannot now be allowed to say, that the decree has taken him unprepared for the controversy; or that he could now, if permitted, obtain proof to establish the allegations of his bill. He therefore, it is clear, must be held firmly bound by the decree in every way whatever, subject only to an appeal.

It is alleged, that some of the defendants were dead long before the passing of this decree. If so the suit abated as to them; and if the plaintiff *Walsh* had deemed it necessary, for his benefit, to have had the suit revived as against their representatives he might have done so. But since he has set the case down for hearing without calling for a revival of it against the representatives of the deceased defendants, he cannot now complain of the total dissolution of the injunction as to them, as it was not in their power to have revived this suit without his consent for any purpose. (f) But the representatives of the deceased defendants do not complain of any thing, and the plaintiff having failed to establish his case, the bill has been dismissed as to all the defendants; and thus no one of them has been injured by the decree, or subjected to any undue proportion of liability, or obtained any advantages not common to them all, so far as their interests may have been in any way connected. (g)

The petitioner complains of the wrong done to his intestate; and of the injury likely to be done to his creditors. But it is perfectly clear, and indeed was admitted in the argument, that this suit having abated by the death of the petitioner's intestate, it was totally at an end as to all his interests; and his representative being no party to the suit cannot, in any way whatever, be bound or affected by the decree which has been passed after that abatement.

The petitioner, therefore, can have no right to complain of the decree in any respect, as his intestate's interests are not molested by it. If it be true that the consideration of the bonds, by which the petitioner's intestate became jointly bound with the plaintiff *Walsh*, was unfounded and fraudulent, he may now avail himself of such circumstances in any manner the law will allow, unembar-

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(f) *Griffith v. Bronaugh*, 1 Bland, 548.—(g) *Mandeville v. Riggs*, 2 Peters, 492.