

INDEX.

ABATEMENT.

Where the suit abates by the death of a party, the injunction is not thereby dissolved without notice to revive.—*Walsh v. Smyth*, 23.

But on the ground of the great lapse of time after the abatement, the defendant may move at once for a dissolution of the injunction, 24.

Where after a suit has abated by the death of a plaintiff, and some of the defendants, the survivors bring the case to a hearing, and the injunction is dissolved as to all, none of the representatives of the deceased parties can complain, 22.

A creditor's suit does not abate by the death of a plaintiff or any creditor, who may have come in, if there be then a plaintiff or creditor competent to prosecute the suit.—*Austin v. Cochran*, 339.

But a creditor's suit will abate by the death of a defendant, heir, or devisee, whether there be any surplus of the proceeds of sale to be returned to him or not, 340.

A discharge under the insolvent law of a party to a pending suit does not operate as an abatement; but the suit becoming thereby defective, the defect must be removed before the suit can proceed.—*Hall v. McPherson*, 538.

Where a bill prays relief against several on the ground, that the deed under which they all claim is fraudulent, and one dies the suit abates as to all.—*Neale v. Hagthrop*, 599.

ACCOUNT.

The right of the plaintiff must be first determined, as there can be no account where the plaintiff has no title.—*Neale v. Hagthrop*, 561.

Where the plaintiff may be entitled to relief by delivery or a sale, and also to rents and profits, the delivery or sale should be first ordered, and then an account up to that time, 561, 601.

In taking an account, in the absence of proof of a particular day, a medium must be assumed, 588.

ACTS OF ASSEMBLY.

The acts of Assembly which authorize the sale of the real estates of infants considered as to their true construction, their practical utility, and their constitutionality.—*Williams' case*, 199, 209.

An act of Assembly which assumes, that the property belongs to either party, after a court of competent jurisdiction has determined that it belongs to neither, deemed unconstitutional.—*The Wharf case*, 385.

AD QUOD DAMNUM.

At common law an inquisition under a writ of *ad quod damnum* must be held before the property can be taken.—*Compton v. The Susquehanna Rail Road*, 389.

The usual provision in road and canal acts for the condemnation of private property, held to be a substitute for the writ of *ad quod damnum*, 389.

Under the acts incorporating road, and canal companies, unless otherwise provided, the damages may be assessed either before or after the property has been taken; except where the value would be so obscured as to prevent the jury from making a fair valuation from their own view. But no unreasonable delay or fraud, in taking the inquisition, will be suffered, 383.

The form of a writ of *ad quod damnum* and inquisition under the Provincial government.—*Pressly's case*, 390.

The *ad quod damnum* clause in an act of incorporation to be construed strictly, but fairly.—*The Bellona Company's case*, 448.

What is such a public use as authorizes the taking of private property under an *ad quod damnum*, 451.

The property of a corporation, as well as that of an individual, is subject to be taken for a public use under the power of *eminent domain*, 452.

Where there are several public uses the *ad quod damnum* power may be so limited as to preserve them all, 452.