STUDENT NOTES

ACTIONS — ELECTION OF REMEDIES. — Because the interests of a second wife had intervened, the first wife failed in her equity suit to set aside a fraudulently obtained decree annulling her marriage. She then sued her former husband for damages. The first ground of demurrer set up was that by electing to sue in equity for a restoration of the marriage relation the plaintiff was estopped to bring an action for damages. The court said "... a party is not estopped to maintain a second suit unless the two suits have substantially the same aim and scope and the remedy sought is substantially the same in each." Cameron v. Cameron.¹

The defendant was evidently relying on the doctrine of election of remedies. The court, however, simply cited Ruling Case Law² and laid down a rule which is really the test for res judicata and has practically nothing to do with election of remedies. This does not mean, of course, that the ultimate result was wrong. The

¹ 162 S. E. 173 (W. Va. 1932). For a complete statement of the facts in this case, see case comment, infra p. 371.
² 9 R. C. L. 964.