

a decree, to the passing of which the party has assented; or which by his negligence or omission, he has permitted to go against him, it would seem necessarily to follow, that no appeal ought to be allowed to a party against whom any such decree had been passed by this Court, either in the ordinary course, or according to the special provisions of the Act of Assembly, which authorizes the Court to proceed *ex parte*; 1820, ch. 161, s. 1; or under any of the Acts which authorize the Court to take the bill, *pro confesso*, as against an absent, or a contumacious resident defendant; since the right of appeal has been reserved to such a party by no Act of Assembly, in any case whatever; and if he were, notwithstanding, to be suffered to appeal, such a decree would be thereby rendered, in a great measure, utterly futile; and he might thus be enabled to turn his own negligence to his particular benefit, by taking advantage of errors and omissions in the proceedings, which must have been waived, or might have been cured, or provided for, had he appeared and answered. But this is a matter which yet remains to be carefully considered and finally determined by the proper tribunal.

The Act for regulating the granting of appeals from and to the Courts of common law, declares, that the method and rule of the prosecution of appeals shall be in the manner and form as therein expressed, that is to say, the party appealing shall procure a transcript* of the full proceedings of the Court whence such appeal shall be made under the hand of the clerk of the said Court and seal thereof, and shall cause the same to be transmitted to the Court before whom such appeal is to be heard; and also in the same Court file, in writing, according to the rule of the same Court, such causes, or reasons, as he had for making the appeal; upon which transcript the Court, to whom the appeal shall be made, shall proceed to give judgment. 1713, ch. 4, s. 4. After which the Legislature further declared, “that appeals from the Court of Chancery to the Court of Appeals, shall be subject to the same regulation and limitation, as to the prosecution of them, as appeals from the Courts of common law are. 1729, ch. 3; s. 3. But there is no Act of Assembly which directs, that the execution of a decree in Chancery shall, in any case, be stayed on the appellant's giving bond, with sureties, for the prosecution of his appeal, or which, in any manner whatever, prescribes the terms upon which any appeal may be granted; or the conditions upon which the execution of any decree of the Court of Chancery shall be delayed until the appeal can be heard and determined. As to all such matters, therefore, this Court has always been, as it now is, governed by the analogous practice of our own Courts, so far as it can be so considered, and by the rules and practice of the English Court of Chancery in like cases. (But see the Act passed since 1826, ch. 200.)