7; *Gore* v. *Worthington*, 3 *H. & McH.* 96; *Kilt. Rep.* 239.

12 * But in the practice under our Acts of Assembly, in relation to appeals, there is no evidence to be found of any course of proceeding, analogous to that of the English Courts, of justifying bail in error.

It seems, that originally all decrees of the High Court of Chancery of England were final and conclusive. It not only appears, that no appeal from a decision of that Court was allowed, prior to the year 1581; but, that the right of appeal, as then first introduced, remained entirely unsettled until about the year 1662, when the matter was taken up; and, after having been much opposed, zealously debated, and maturely considered, was finally settled and admitted to be as much a constitutional right to appeal from a decision of the High Court of Chancery, as from a Court of common law. *Gilb. For. Rom.* 190; 1 *Harr. Pra. Chan.* 676; 2 *Mad. Cha.* 573; 2 *Lond. Jurist*, 107. But as, at common law, no writ of error will lie from a judgment by default or by consent; so in equity the decree or order appealed from must have been adverse, and not made by the express or tacit consent of the appellant: as when a party thinks proper not merely to decline opposition to measures which the Court would enforce; *Wood* v. *Griffith*, 19 *Ves.* 550; 1 *Meriv.* 35; but, by himself or his counsel, consents to a decree or order, there lies no appeal from it, even although he gave no such authority to his solicitor; his remedy being against his counsel; *Downing* v. *Cage*, 1 *Eq. Ca. Abr.* 165; *Buck* v. *Fawcett*, 3 *P. Will.* 242; *Harrison* v. *Rumsey*, 2 *Ves.* 488; *Bradish* v. *Gee*, *Amb.* 229; *Beresford* v. *Adair*, 2 *Cox*, 156; nor can any appeal be made generally available from a decree by default; *Cunyingham* v. *Cunyingham*, *Amb.* 89; *Stubbs* v. ——, 10 *Ves.* 30; *Charman* v. *Charman*, 16 *Ves.* 115; or, as it would seem, from a decree taking the bill *pro confesso*. *Davis* v. *Davis*, 2 *Atk.* 24; *Maynard* v. *Pomfret*, 3 *Atk.* 468; *Carew* v. *Johnson*, 2 *Scho. & Lefr.* 300; *Jopling* v. *Stuart*, 4 *Ves.* 619; *Geary* v. *Sheridan*, 8 *Ves.* 192; *Ogilvie* v. *Herne*, 13 *Ves.* 563; *Heyn* v. *Heyn*, *Jac. Rep.* 49.

The general rule of the common law, which postpones the exercise of the right of appeal until after the final judgment of the original Court, is founded in sound sense; and, as is evident, should be as closely followed as practicable in allowing appeals from the Court of Chancery. Therefore, it has been held, that no appeal can be allowed in equity, but from a final decree; or from an order grounded on some disputed facts disclosed in the bill and answer involving the merits of the controversy; and which order,

13 if executed, would subject the party to some irreparable * grievance; *Blount's Case*, 1 *Atk.* 295; *Head* v. *Harris*, 2 *Scho. & Lefr.* 563; *Roche* v. *Morgell*, 2 *Scho. & Lefr.* 724; *Buel* v. *Street*, 9 *John. Rep.* 447; *Snowden* v. *Dorsey*, 6 *H. & J.* 114; or from an order involving the merits, and which order could not be