had paid the whole purchase money, to have the benefit of the equitable lien of the vendor, (*n*) and also to allow a surety in a

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(*n*) MELUY *v.* COOPER.—This bill was filed on the 7th of December, 1803; it states that a mill, &c. the property of James Tilghman, had been sold under a decree of this Court, by Hugh Sherwood, as trustee; that James Cooper became the purchaser, who agreed to receive the plaintiff, Meluy, as a joint purchaser with him of the one-half; each to pay one-half of the purchase money; that Cooper took possession and died, without having paid any part of the purchase money; that the whole purchase money had been since paid by the plaintiff, but no deed had been obtained from the trustee, Sherwood; and that the plaintiff has a lien on Cooper's half for the purchase money, which he, the plaintiff, became bound as surety to pay, and had in fact paid. Prayer, that the mill, &c. might be sold to reimburse the plaintiff, &c.

On the 12th of February, 1804, the infant heirs of James Cooper answered by their guardian *ad litem:* and the trustee, Sherwood, also put in his answer, by which they admitted the truth of the allegations of the bill. Upon which the case was submitted; and on the 13th of February, 1804, a decree was passed that the property be sold, &c. After which the infant defendants, by William Atkinson, their guardian, petitioned that the decree might be opened, and that they might have leave to amend their answer.

HANSON, C., 1st March, 1804.—Not even an affidavit of the truth of the matters stated in, or annexed to the petition. The Chancellor, therefore, cannot at present comply with the prayer of the petition.

On the 2d of April, 1804, a similar petition, with an affidavit of the truth annexed, was filed; and the plaintiff, Meluy, afterwards filed a counter petition, upon which the case was again submitted.

HANSON, C., 1st May, 1804.—The Chancellor has considered the said petitions. The former, although intended to prevent the execution of a decree, is neither an application for rehearing a cause, nor a bill of review. It is a request that a decree may be opened, and that another answer may be admitted, and fresh proceedings be had. In fact it was an application to set aside a decree, regularly passed on the bill, answers, and proof, without suggesting any error in judgment, or discovery of facts; and that, too, is expected to be done without hearing the other party or calling on him to answer. A similar application the Chancellor does not recollect ever before to have received or heard of. If it should succeed, the precedent thereby established, might render decrees of little value indeed: as a defendant, against whom a decree should be passed, might obtain an order for annulling the proceedings; or, at least, infant defendants might have that advantage.

When a decree is passed, the parties are no longer in Court. Suppose the Chancellor to pass an order for opening the decree, as is prayed, what are to be the subsequent proceedings? It may be said, the Chancellor is to act according to his discretion, to prescribe the time for putting in an answer by another guardian, &c. &c. But under what law, usage, or practice, should he act? On a bill of review, permitted to be filed, or an order for rehearing, the practice is established. But the present application, as has already been observed, is neither a bill of review nor a petition for rehearing. In a word, it appears wholly unprecedented, as well as improper.