

defects of any original bill. It is, therefore, in no sense, properly and alone, a *supplemental bill*.^(h)

In *England*, a bill of review can only come in after the decree has been perfected and enrolled. But if the party discover any error, or new matter of fact after the decree has been pronounced, and before it has been enrolled, he may obtain relief by a *bill in the nature of a bill of review*; and need not wait, or go to the expense of having the decree enrolled. Now, from what the Court of Appeals have said, as we have seen, it clearly follows, that, in this State, there can be no such thing as a *bill, in the nature of a bill of review*: since all decrees here are made by being signed and filed; and when so made, are to be considered as decrees enrolled. Most clearly such a bill cannot be resorted to in this case.

A bill of review, properly so called, lies *against* those who were parties to the original bill, and *against them only*; and must be either for error apparent on the face of the decree, or for some new matter.⁽ⁱ⁾ But before a bill of review, for newly discovered matter, can be filed, the party must petition for leave to do so; setting forth the new matter, strongly sustaining his statement by affidavits; upon which the leave of the court is granted. In this case there has been no petition, setting forth newly discovered matter, nor any leave given to file such a bill. This bill, therefore, can, in no respect whatever, be considered as a bill of review, grounded on the discovery of new matter.

A bill of review for error apparent on the face of the decree, may be filed without asking, or obtaining the leave of the court; and it may be brought by either of the parties to the original bill alone; or it may be filed by a person not a party to the original decree, but whose rights are injured by it. Such is the case now before this court. The bill of these plaintiffs has this character; and more.

This bill has yet another aspect. It alleges, that the plaintiffs, one of whom was a party to the original suit, had a good and available defence; that all of them should have been made parties; that they have, all of them, an interest which they will be able to maintain and prove; and that the decree of the 4th of August last was obtained by surprise, for a greater amount than was actually

^(h) 1 Mont. Dig. 315; 2 Mad. Chan. 519; 1 Fow. Ex. Pra. 61.—⁽ⁱ⁾ 1 Mont. Dig. 330; 2 Mad. Chan. 537.