

August last; and the other, as a mere stay of execution, because of some credits not having been given. It was also urged, that the allowing of such a bill of review to be filed, did, of itself, operate a suspension of all further proceedings, until the final hearing; and that it must be so understood, when taken in connexion with the prayer of the bill, and the circumstances of a bond having been required and accepted. The Chancellor has been misunderstood.

According to the *English* law, neither the filing of a petition for re-hearing; nor a bill in the nature of a bill of review; nor a bill of review for error apparent on the face of the decree; nor a bill of review for new matter, after leave given; (*m*) nor an original bill, to set aside a decree on the ground of fraud; nor a bill to open an enrolled decree, and let in the merits, has ever, or under any circumstances been considered, *in itself*, as a suspension of the execution of a decree. The party having the decree, in all such cases, is allowed to proceed, unless specially and expressly restrained; which is never done but on the sum decreed being brought into court, or on good security being given. Similar law and practice has been long established here; and, hence it was, that the Chancellor required a bond with approved surety, to be filed before he imposed the restriction or injunction, expressed in the order of the 16th of November last. (*n*)

If, on considering this bill in its third character, there should be found sufficient cause for opening the decree, and having the case re-heard upon its merits, it will be most advantageous to all parties, that it should be done now: And it will be unnecessary to inquire, and express an opinion, whether the three characters of this bill

(*m*) Mitf. Pl. 88.

(*n*) Mitf. Pl. 89.

CARROLL v. PARRAN.—February, 1733.—Bill of review—*subpoena* issued.—Upon motion of the defendant's counsel, that the bill be dismissed—*ordered*, that the said bill be dismissed with costs; leave not being given either by petition or motion to file such bill of review.

Daniel Dulany, on behalf of Charles Carroll, moves the court, that he may have leave to file a bill of review against Parran, and that a bond with good security, payable to John Parran, may be lodged in court by the said Carroll to stay execution of the same decree.—*Ordered*, that a bill of review be filed, and that no execution issue upon the former decree.

Upon motion of Samuel Young, of counsel with the defendant,—*Ordered*, that he have leave given to answer until next court.—*Chancery Records, Lib. I. R. No. 2, pages 543, 643.*