

the proceedings in such cases, and the awarding of execution being considered incidents exclusively belonging to the court in possession of the principal case. (u) So too in the federal courts there can be no appeal in a chancery suit, but from the *final* decree. (w) A decree for the sale of mortgaged property has been deemed a final decree within the meaning of the act of Congress; (x) but it has been held, that an order overruling a plea of the statute of limitations, and directing the defendant to answer; (y) or an order dissolving or refusing to dissolve an injunction, is not a decree from which an appeal will lie. (z) It is believed, that in all the States of our Union, in which distinct Courts of Chancery exist, or in which any of their inferior and original tribunals have been invested with the powers of a Court of Chancery, the range of the right of appeal has been more or less limited; and that some regulations have been adopted with a view to prevent the abuse of its exercise. (a) In North Carolina all original jurisdiction in equity, beyond a small amount, was given exclusively to the Superior Courts of Law and Equity, which were, at one time, courts of last resort, and, of course, there could be no appeal in equity from any of their decisions. (b)

In Maryland, although it appears, that the Court of Chancery was one of the earliest of the judicial establishments of the Province, yet there is nothing which shews, that an appeal was ever allowed from any of its decrees, until it was expressly provided for by the legislature. The act for regulating writs of error and granting appeals from and to the courts of common law; (c) is, as its title indicates, like all the previous acts upon the same subject, expressly confined, in all its provisions, to cases at common law; and has been followed out by a practice, in some particulars, different from that of the English courts in like cases. (d) The existing act of assembly, which allows of appeals from Chancery, seems to have been a re-enactment of a law which had been passed a few years before; (e) it enacts, that it shall be lawful for any person who conceives himself "aggrieved by any decree of the Chancery Court, to have an appeal to the governor and council," the then court of appeals. (f) It is not said, that the right of appeal shall be

(u) *The Hollen & Cargo*, 1 Mason, 431.—(w) Act Cong. 24th Sept. 1788, ch. 20, s. 22.—(x) *Ray v. Law*, 3 Cran. 179.—(y) *Rutherford v. Fisher*, 4 Dal. 22.—(z) *Young v. Grundy*, 6 Cran. 51; *Gibbons v. Ogden*, 6 Wheat. 448.—(a) 7 John. Cha. Ca. Gen. Index, 22; *Henning & Munford's Rep.*; 4 Desau. Rep.—(b) *Haywood's Rep.*—(c) 1713, ch. 4.—(d) *The State v. Buchanan*, 5 H. & J. 331.—(e) 1718, ch. 10: 1720, ch. 20.—(f) 1721, ch. 14, s. 3.