

court itself had acted upon that belief, which it was authorized to edduce from the answer of *Mullikin* and the absence of any proof to the contrary; when in fact it had not been so released and could not be protected against that incumbrance, because those creditors had not been made parties.(r)

According to these views of the case, and looking to these consequences, it is perfectly evident, that this decree, if suffered to stand and be executed, may work material injury to those who ought to have been made parties to it, and who have never been called upon or heard in any way: and as to purchasers, it may operate as an instrument of deception and fraud. I feel it to be my duty, as far as practicable, to prevent any proceeding of this court from being thus used: and not to suffer the parties by any contrivance; or by the holding back of any circumstance, either wilfully or negligently, to make any of the solemn acts of the court operate perniciously and unjustly upon the rights and interests of innocent persons.(s) For these reasons therefore I shall afford the parties an opportunity of rectifying this decree; and for that purpose stay its execution until further order.

A mere bill of review would not be commensurate to the petitioner's objects; he must therefore be allowed to file such a bill as will introduce, as parties, all the creditors named in the deed of the 7th April 1810, in such a manner as to bring their interests, in connexion with those of the present parties, fully before the court.

Whereupon it is ordered, that all further proceedings under the decree of the second day of May 1825, be and the same are hereby stayed and suspended until the further order of this court. And it is further ordered, that the petitioner *Benjamin Mullikin* have leave to file a bill, in the nature of a bill of review, as prayed; whereby he shall make all the parties to the said decree parties to the said bill, together with the creditors, or their legal representatives, who are named in the said deed of the 7th of April 1810, in such a manner as to bring the interests of all the said parties, in the property mentioned in the said deed, fully before the court. And it is further ordered, that the said *Benjamin Mullikin* pay unto the said plaintiff all the costs which have accrued upon his, the said *Mullikin's*, said petition, including this order, to be taxed by the register.

(r) *Finley v. Bank United States*, 11 Wheat. 304; *Clifton v. Haig*, 4 Desau. 330.
(s) *Gifford v. Hort*, 1 Scho. & Lefr. 396, 399.