that the king could not now demand justice of the King of *Denmark*, because he had the wrong-doer in his own power, and *ergo* if he let him escape, there could be no reprisal; that it was an injury to the subject to stay his proceedings at law, and no injury to the *Dane* to let the suit go on, for whatever was law in *Denmark*, would be law in *England* in this case, and would be allowed as a very good justification in the action: but if the wrong were done without colour of authority, it was fit to be questioned: and if the *Dane* wanted his authentic proofs, I offered him, upon a bill exhibited before me, to grant him an injunction till the commission returned. He chose rather to pay the money, so was dismissed; but afterward brought his bill, and had an injunction *donec.*—Lord *Nottingham's* MSS. (See the next case.)

BLAD *v.* BAMFIELD. *In Chancery. 21st November*, 26 *Car.* 2, 1674.

Perpetual injunction to restrain proceedings against a *Dane*, for the seizure of property of *English* subjects in *Iceland*, the seizure being sanctioned by the *Danish* authorities.

The case of *Peter Blad*, a subject of *Denmark*, against *Bamfield* and Others, came now to be heard (of which see the beginning before at the council board (see the preceding case [and note])), and the scope of the suit was to stay several actions commenced at law in trespass and trover, for seizing certain [605] goods of the Defendants for trading in *Iceland*, contrary to certain privileges claimed there by the Plaintiff and others. The Defendants insisted that this was no cause of state, and was *ergo* dismissed from the council table; that the injuries they had suffered were great, and such as were done with some kind of affront to and contempt of the *English* nation; that they had a most undoubted right of trade in *Iceland*, and by the articles of peace with *Denmark*, were to use their commerce with the subjects of *Denmark* without molestation; that if the King of *Denmark* had granted any patents of privilege contrary to the freedom of trade, they were illegal, and a breach of the treaty in question; and if the patents were of ancienter date, they had been dispensed with by the contrary practice, which had suffered *English* to trade there, and so invited the Defendants; that, however, the Plaintiff had already had all the benefit of this Court which he could reasonably expect, for he obtained an injunction till he had examined his witnesses, and now having perfected his proofs, whatever could avail him here, would also avail him at law; wherefore they prayed leave, that now, at last, they might go to their trial at law.

I said never was any cause more properly before the Court than the case in question; first, as it relates to a trespass done upon the high sea, which though it may seem to belong to the cognisance of the admiral, yet I took this occasion to show that the Court of Chancery hath always had an admiral jurisdiction, not only *per viam appellationis*, but *per viam evocationis* too, and may send for any cause out of the Admiralty to determine it here; of which there are many precedents in *Noy's MSS.* 88; and in my little book, in the preface, *de officio Cancellarii*, sect. 18; and in my parchment book in [606] octavo, tit. *Admiralty* (3 *Swans.* 664); secondly, as it had relation to articles of peace, all leagues and safe conducts being anciently enrolled in this court. That it is very true this cause was dismissed from the Council Board, being not looked on there as a case of state, because for ought appeared to them, it might be a private injury, and unwarrantable, and so fit to be left to a legal discussion; but now, the very manner of the defence offered by the Defendants had made it directly a case of state; for they insist upon the articles of peace to justify their commerce, which is of vast consequence to the public; for every misinterpretation of an article may be the unhappy occasion of a war; and if it had been known at Board that this would have been the main part of their case, doubtless the Council would not have suffered it to depend in *Westminster Hall.* But in truth this pretence of articles of peace must needs fail the Defendants; for the articles of free trade are reciprocal, and are understood on both sides, with exception to the laws and customs of each kingdom. Put the case then that a *Danish* ship should trade to the *Barbadoes*, or any other of his majesty's foreign plantations, and were thereupon taken and seized, or should break in upon the privileges granted by his majesty to the

East India Company, and were there arrested at *Bantam* or *Fort St. George*, doubtless this were no breach of the treaty on our part; and if any of his majesty's subjects who seized that ship at the *Barbadoes*, or judges, should be then molested and prosecuted in *Denmark*, in a private action, for what they did in obedience to the laws of their king and country, it would look like such a breach on their part as might well occasion a further rupture on ours. *Ergo*, to come now to the present case, certainly no case was ever [607] better proved; for the Plaintiff hath proved letters patent from the King of *Denmark* for the sole trade of *Iceland*; a seizure by virtue of that patent; a sentence upon that seizure; a confirmation of that sentence by the Chancellor of *Denmark*; an execution of that sentence after confirmation; and a payment of two thirds to the King of *Denmark* after that execution. Now, after all this, to send it to a trial at law, where either the Court must pretend to judge of the validity of the king's letters patent in *Denmark*, or of the exposition and meaning of the articles of peace; or that a common jury should try whether the *English* have a right to trade in *Iceland*, is monstrous and absurd.

Wherefore the whole state of the case appearing now before me, as much as ever it can do in any other place, I thought fit to put an end to it, and decreed that the Plaintiff should have a perpetual injunction to stay the Defendant's suit at law; and that satisfaction should be acknowledged upon that judgment which the Plaintiff had acknowledged to the Defendants as a temporary security till the hearing of the cause.—Lord *Nottingham's* MSS.

COOK *v.* BAMFIELD. 10*th February*, 26 *Car.* 2, 1673–4.

1 *Ca. in Cha.* 227.—Bills of review classed. After a demurrer to a bill of review for error overruled, the decree is reversed without further hearing.

There are three sorts of bills of review to reverse decrees: 1. Such as are grounded upon new matter discovered since the decree: 2. Such as seek to reverse a decree, as being partly for the Plaintiff and partly against him, and so not large enough; if [608] either of this kind of bills be demurred to, and the demurrer overruled necessarily, the Defendant is to answer, because fact is in issue: 3. Such as assign errors in the body of the whole decree; if this bill be demurred to and the demurrer overruled, the decree is reversed, and the errors allowed, and no further answer or hearing needs, *per course de Court*. But some object, that as a bill of review of this kind may be answered at first, why not after a demurrer overruled? Solution, because no answer can be but *in nullo erratum*.—Lord *Nottingham's* MSS.

NURSE *v.* YERWORTH. 28th *July*, 26 *Car.* 2, 1674.

Rep. Temp. Finch, 155; 2 *Mod.* 8. See *Trower* v. *Butts*, 1 *Sim. & Stu.* 181.—An infant *in ventre sa mere*, under a devise to heirs of the body of the devisor begotten and to be begotten, cannot take by purchase the legal fee, the terms of description not amounting to a legal designation of him; but is entitled in equity, by virtue of the apparent intention, to the trust of a term attendant on the inheritance, though merged at law.

The case of *Nurse* and *Yerworth*, which upon the 22d *November* last was directed to be stated, came now to be argued, and was thus: *Richard Yerworth* senior, was seised in fee of *Snowston*, and other lands in *Leicestershire*; and upon his marriage with the Plaintiff *Mary*, daughter of the other Plaintiff, *Thomas Nurse*, settles them on himself for life, remainder to his wife for a jointure, remainder to his own right heirs; but this marriage settlement, supposed to be made 1st *May* 1649, was out of the case, and waved, because not extant nor proved; so the case arose upon the subsequent matter, and was this: *R. Yerworth* senior, being seised in fee, 1st *March* 1649, makes a lease to the Defendant for ninety-nine years, in trust for such persons as he by his will should appoint, and 9th *March* 1649, [609] makes his will, and limits the profits for twenty years, to go towards debts and legacies; and after twenty years, to the use and behoof of the heirs of my body on the body of *Mary*, my now wife, begotten and to be begotten, for ever; and for lack of such issue to the Defendant in fee. and upon the 24th *March* 1649 the