There are some cases to be found among the proceedings of the Chancery Court, during the Provincial Government, in which it appears, that, here as in England, the decree has been introduced by a brief recital of the allegations and proofs in the case; but there are few instances of the kind to be met with since the revolution. *The Proprietary* v. *Jenings*, 1 *H. & McH.* 140; *Sparrow* v. *Gassaway*, 1733, *Chan. Proc. Lib. J. R., No.* 2, *p.* 405; *O'Brien* v. *Connor*, 2 *Ball & Bea.* 146; *Gregory* v. *Molesworth*, 3 *Atk.* 627; *Ex parte The Earl of Ilchester*, 7 *Ves.* 373. Nothing, however, has been more common than for the Chancellor himself to state the case and to give his opinion, in writing, upon it as introductory to his decree. But neither of these modes of proceeding can be, or indeed ever have been regarded by the Appellate Court as sufficiently showing what were the exceptions and points in controversy before the Court below. In the recital of the allegations and proofs it could not but often happen, that much was stated which had not been at all controverted; and as the recital was made under the sanction of the Chancellor it *followed, on
21 the other hand, that much matter might have been put aside, or omitted which one or the other of the parties had deemed of great importance, and upon which he had earnestly relied. *O'Brien* v. *Connor*, 2 *Ball & Bea.* 154. The opinion of the Chancellor, it is also evident, should still less be relied on as to what were the points made before him; because, like all other Judges, he expresses an opinion on such points only in the case as appears to him to be decisive; and passes over all others unnoticed; or, indeed, as sometimes, though rarely happens, he takes a view of the case which renders it wholly unnecessary to pay the least attention to any one of the points that have been made by either of the parties to the controversy. *Kelly* v. *Greenfield*, 2 *H. & McH.* 141.

Yet it is all-important to the due administration of justice, in all cases, that "the full proceedings of the Court," appealed from, with an exact exhibition of the exceptions and points there taken and made, and nothing more, should be as amply and correctly spread out and presented before the revising and Appellate Court as they were before the Court below. For it is perfectly manifest, that, as on the one hand, the case should not be taken in fragments, upon successive appeals, or with any additions; 1819, ch. 144, sec. 4; *Canter* v. *The American & Ocean Insur. Com.* 3 *Peters*, 318; so, on the other, the parties should not be permitted to deviate from or enlarge the ground occupied by them, in the Court below, by taking any other exceptions, or making any new points. Because, in passing upon any such new matter the Court of Appeals cannot act, according to the terms of its constitution, merely as a tribunal for the revision and correction of errors; but must necessarily step beyond its legitimate orbit, and take upon itself the power of a Court of original jurisdiction. *Chambers* v. *Wilkins*, 2