

But if an appeal would lie from such an order as that of the 12th of February last, and if the Chancellor could, in no case, on an appeal, as in England, order the money to be paid into Court, to remain there pending the appeal, and if he were bound, as has been contended, by positive legislative provisions to grant the appeal, on the parties entering into bond with approved surety, then it would be utterly futile to ask for, or obtain such an order in any case whatever, even in the plainest and strongest that could be imagined; since the party thus called on could always suspend its execution at pleasure. The order in this case calls on the party to bring the money into Court, that the Court itself may have it placed in perfect safety for the benefit of all concerned;(e) not that he shall merely give security for the payment of it. But if the party could appeal from such an order, and suspend its execution, by giving an appeal bond, then he could, in effect, prevent the Court from going farther than barely demanding security for the payment of the money. The consequence of which would be, that such orders would operate partially and not alike upon every citizen; upon those most wealthy and best able to comply, they would be mere cobwebs; but upon those least able to find security they would have their full and just effect; they would operate as rigid injunctions. Upon the whole, the Chancellor is perfectly satisfied that an appeal cannot be allowed, and therefore,

It is ordered, That the motion of Hugh Thompson, to grant an appeal from the order of this Court, made on the 12th of February last, directing him to bring a certain sum of money into Court, as therein set forth, be and the same is hereby overruled and rejected.

After which, on application, and its being shewn that the order of the 12th of February had been served as required, an attachment was ordered against the defendant Thompson, returnable forthwith; but it so happened, that the process was never served
175 *on him. At the June Term of 1825, of the Court of Appeals, the defendant Thompson applied to that Court for an order prohibiting the Chancellor from proceeding pending the appeal, upon which an order was passed and certified to the Court of Chancery accordingly. As to which, see 6 *H. & J.* 321, 334.

The case having abated by the death of Thompson, the parties filed an agreement in the Court of Chancery, under which Robert Oliver, as executor of Thompson, appeared as a party in his stead; and upon which the following order was passed.

(e) It is admitted on all hands, that the Court has, in all cases, the power to invest any money in its hands so as to keep it productive pending the litigation; and therefore there can be no ground to object, that if the money were called in, there would necessarily be any great loss of interest in a case like this.—*Latimer v. Hanson*, ante, 51.