for costs; and the like. To allow a party, on giving bond, or upon any other condition, to appeal from such orders as these, so as thereby to suspend their execution, would be a scandalous abuse of the right of appeal;(z) it would be to palsy the arm of justice;(a) and to make a chancery suit the greatest judicial nuisance that could well be imagined;(b) or, as has been justly observed, by sustaining appeals to such an extent, the court of the last resort would draw into it the whole business of the Court of Chancery, before it had become ripe for discussion and decision there; and not only render the voice of that court mute, and its process nugatory, but it would destroy the appellate court itself, by rendering it wholly incompetent to despatch the immensity of business which would be drawn into it.(c)

But as the record of a chancery suit contains all the proofs, as well as all the allegations at large, of the litigants, with a recital, previous to the exhibits read, of the substance and scope of the pleadings, tending to the points in controversy upon which the decree is made, drawn up, as directed by the rule and practice, in the most concise manner, by the register, under the inspection of the solicitors of the parties, of what was alleged, relied on and proved at the hearing, as being parcel of, and as shewing the foundation upon which the court had rested its final decree; the whole of which, by an appeal, is removed to the court above;(d) therefore, in order to prevent the appellant from making a fraudulent, or abusive use of his right of appeal, by laying back, at the final hearing in chancery, for the purpose of taking his opponent by surprise in the appellate court, by insisting on testimony not previously relied upon; or by taking exceptions, or *making points* not taken or made in the court below, it has been laid down, in general, that no evidence can be read and relied on in the appellate court, which was not read and relied on in the court of chancery;(e) that no exceptions can be taken, or *point made*, by way of appeal, which had not been taken or made in the court below;(f) that

(z) Way v. Foy, 18 Ves. 453.—(a) Huguenin v. Baseley, 15 Ves. 183.—(b) The Warden of St. Paul's v. Morris, 9 Ves. 318.—(c) Buel v. Street, 9 John. Rep. 448; 2 Mun. Rep. Intro. Judge Tucker's letter, 17; Debates Virg. Conv. of 1829, page 760; The Warden of St. Paul's v. Morris, 9 Ves. 316; Cowper v. Scott, 1 Eden, 17; Wirdman v. Kent, 1 Brow. C. C. 140; Jenour v. Jenour, 10 Ves. 572.—(d) Gilb. For. Rom. 162, 184, 190; Pra. Reg. 127; 1 Harr. Pra. Chan. 77, 620; 2 Harr. Pra. Chan. 664; White v. White 4 Ves. 35; 2 Fow. Exch. Pra. 164; Broad v. Broad, 2 Cha. Ca. 161; Gifford v. Hart, 1 Scho. & Lefr. 396; Carew v. Johnson, 2 Scho. & Lefr. 308; (e) Cunyngham v. Cunyngham, Amb. 90; Button v. Price, Pre. Cha. 212; Keen v. Stuckely, Gilb. Rep. 155; Wood v. Griffith, 19 Ves. 550.—(f) Chamley v. Dunsany, 2 Scho. & Lefr. 712.