

no new matter, not in issue in the court below, can be insisted on in the court above; (g) and that no account which was not asked for at the hearing below, can be made the ground of appeal. (h)

Whence it appears, although in equity as well as at common law, the parties, after framing their allegations to suit the peculiar nature of their case, are allowed sufficient time and means to bring in all their proofs; and are then permitted to take any exceptions, and to make any points they may think proper, that yet they are not suffered, by an appeal, to cast their case into a new shape; or to give it a new, or different aspect in any respect whatever; since the sole object of an appeal, in all cases, whether at law, or in equity, is not to allow the appellant to present a different, or a better case; but merely to enable the appellate court to correct such errors as it may appear the inferior court had fallen into, upon a review of the identical case upon which the court below had decided, and nothing more.

No statutory provisions have been made in England for the purpose of regulating the right of appeal from the Court of Chancery, or for preventing its abuse; and therefore the matter has been hitherto entirely governed by such rules as have been laid down by the original and appellate tribunals themselves, upon due consideration of the peculiar nature of the subject. (i) It is admitted, that very grave reasons should be required to induce the court to refuse the benefit of appeal; (j) and that any interference with the right of appeal is a delicate subject, to be applied with jealousy. (k) Nevertheless, as it would be attended with consequences most oppressive, to suitors in equity, if an appeal were allowed, of itself, to operate as a stay of proceedings, it has long been the established practice of the Court of Chancery to consider an appeal as, in no case, having the effect of suspending its proceedings, unless an order for that purpose is made by the court itself; or unless, in special cases, the appellate court should interpose by a special order. (l) And, even if the decree were absolute and final, yet, if it were of such a nature, that the consequence of suspending its execution would, in effect, be, if the party in whose favour it had been made should die before the appeal could be heard, a reversal of the decree without any judgment of the court, the proceedings would not be stayed. (m) The Court of Chancery appears to have

(g) *Thompson v. Waller*, Pre. Chan. 295.—(h) *Chamley v. Dunsany*, 2 Scho. & Lefr. 712.—(i) 2 Fow. Exch. Pra. 202.—(j) *Wood v. Griffith*, 19 Ves. 551.—(k) *Way v. Foy*, 18 Ves. 454.—(l) *Waldo v. Caley*, 16 Ves. 213.—(m) *Waldo v. Caley*, 16 Ves. 214; *Wood v. Milner*, 1 Jac. & Wal. 616.