

script of the full proceedings of the court whence such appeal shall be made under the hand of the clerk of the said court and seal thereof, and shall cause the same to be transmitted to the court before whom such appeal is to be heard; and also in the same court file, in writing, according to the rule of the same court, such causes, or reasons, as he had for making the appeal; upon which transcript the Court, to whom the appeal shall be made, shall proceed to give judgment.(m) After which the legislature further declared, "that appeals from the Court of Chancery to the Court of Appeals, shall be subject to the same regulation and limitation, as to the prosecution of them, as appeals from the courts of common law are.(n) But there is no act of assembly which directs, that the execution of a decree in chancery shall, in any case, be stayed on the appellant's giving bond, with sureties, for the prosecution of his appeal, or which, in any manner whatever, prescribes the terms upon which any appeal may be granted; or the conditions upon which the execution of any decree of the Court of Chancery shall be delayed until the appeal can be heard and determined. As to all such matters, therefore, this Court has always been, as it now is, governed by the analogous practice of our own courts, so far as it can be so considered, and by the rules and practice of the English Court of Chancery in like cases.(o)

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.(p) 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

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(m) 1713, ch. 4, s. 4.—(n) 1729, ch. 3, s. 3.—(o) But see the act passed since 1826, ch. 200.—(p) *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.