

followed, on the other hand, that much matter might have been put aside, or omitted, which one or other of the parties had deemed of great importance, and upon which he had earnestly relied. (p) 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. (q)

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; (r) 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. (s) And by thus suffering itself, in any respect, to put forth a power, beyond its appropriate sphere, it must inevitably draw to itself much business not properly belonging to it; and often take the parties by surprise with exceptions and points which had never before been thought of; or which had been, until then, purposely concealed, in order to defeat a party of his just right as authenticated by the judgment of the court below; where all such new objections might have been readily removed, had they been then made, and the parties apprised of them at the proper stage of the controversy. (t)

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(p) O'Brien v. Connor, 2 Ball & Bea. 154.—(q) Kelly v. Greenfield, 2 H. & McH. 141.—(r) 1819, ch. 144, s. 4; Canter v. The American & Ocean Insur. Com., 3 Peters, 318.—(s) Chambers v. Wilkins, 2 Litt. Rep. 146; Huling v. Fort, 2 Litt. Rep. 194. (t) Carroll v. Norwood, 4 H. & McH. 290; Mahoney v. Ashton, 4 H. & McH. 328; Beekman v. Frost, 15 John. 558.