

There is, however, nothing to be met with in the proceedings of this court going to show, that the Court of Appeals has, at any time. in chancery cases, rigidly confined itself to the exceptions and *points* made in the court below; and, perhaps, that court might find it difficult to do so, unless some written evidence of the exceptions taken and points made, in this court, were placed upon the record.—And therefore it might be well to have it enacted, by the legislature, as a general rule, in all cases of appeal from the Court of Chancery, that a party should not be allowed to take any exception, or make any point in the Court of Appeals, which he had not taken or made in writing and filed, before the hearing, in the Court of Chancery.(u)

It appears, that this Court has always exercised a discretionary power over the right of appeal, analogous to that exercised by the courts of common law and of chancery of England, so far as to prevent its abuse, in being taken frivolously, vexatiously, or for the mere purpose of delay, by refusing to grant an appeal from every order with which a party may be dissatisfied; or by refusing to stay the execution of the order or decree, but upon certain terms, or until the party had given bond with sufficient sureties, as required by the act of assembly in cases at common law, to prosecute his appeal with effect;(w) and it must also appear, that the

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(u) Some partial provisions have been made in relation to this matter by the acts of 1825, ch. 117, s. 2; and 1832, ch. 302, s. 5.

(w) RAWLINGS v. STEWART.—This was a bill filed by a mortgagor against a mortgagee to redeem; and for an injunction to stay waste. The injunction was granted as prayed. Among the proofs is a deposition of a witness taken on the 10th of January, 1751, before the mayor of London under the act of 5 Geo. 2, c. 7. Upon all which the following decree was passed.

“ And the said cause standing in court ready for hearing, a day was by this court appointed for hearing thereof, on which day, being the first day of June in the year seventeen hundred and eighty, the said cause coming on accordingly to be debated before the Chancellor of Maryland, in the presence of counsel learned on both sides, the substance of the complainant's bill, the answer of the defendant, the proofs and exhibits in the cause appearing to be to the effect herein recited and set forth; whereupon, and upon debate of the matter and hearing what could be alleged on both sides, the court doth think fit, and so order and decree; and accordingly it is this first day of June seventeen hundred and eighty, by the honorable Court of Chancery of Maryland, and the power and authority thereof, ordered, adjudged and decreed, that the said Jonathan Rawlings be let in to redeem the land and appurtenances so as aforesaid mortgaged by Aaron Rawlings to William Hunt, and by him conveyed and made over to the said George Stewart, as set forth in the bill of complaint aforesaid, he the said complainant paying and satisfying to the said George Stewart what shall appear to be really *bona fide*, and equitably due and owing for principal and interest upon the mortgage aforesaid. And that an account be taken of the principal and interest really, *bona fide* and equitably due and owing upon the said mortgage, dis-