

Constitution of the United States. That delegation of power enables Congress to prescribe the manner in which the public acts, the records and the judicial proceedings of every other State shall be proved, and the effect thereof, in this State. But, the affidavit, and certificate appended to this answer are not in any sense public acts, records, or judicial proceedings of Delaware. They are parts of a judicial proceeding of Maryland; such as have been called for, and authorized by the usage and law of Maryland, not of Delaware.

According to the long established practice of this Court in various cases, some of which have been recognized by legislative enactments, 1797, ch. 114, s. 5, it will act upon the evidence, derived from affidavits taken in a foreign country. Prior to the Revolution a *dedimus* was always sent to obtain an answer from a defendant resident in any of the neighboring colonies or in a foreign State, *Chan. Pro. lib. D. D. No. J, folio 6, 59, &c.*, and now commissions are often sent to other States of this Union, *Hunt v.*

354 *Williams, Taylor's Rep.* 318, and into *foreign nations to take testimony where the commissioners must be sworn, by some magistrate of the place, before they can proceed to act. So an affidavit verifying the truth of an answer, made before a magistrate duly authorized to administer an oath in the country where the respondent resides, has long been admitted as sufficient. The acts of foreign magistrates, in all such cases, are however considered as having been done under the authority of this Court; and as deriving their sanction from the judicial power of this State, not from that of the foreign State. For, standing unconnected in the foreign State with that to which they relate here, they would be there wholly unintelligible and inoperative. This interchange of courtesies, in aid of judicial proceedings, seems to be as common among the nations of Europe, as it is with the several States of our Union. *Dalmer v. Barnard*, 7 T. R. 251; *Ex parte Worsley*, 2 H. Blac. 275; *Omealy v. Newell*, 8 East, 364; *Hornby v. Pemberton*, Mosely, 58; *Gason v. Wordsworth*, 2 Ves. 325, 336; *Garvey v. Hibbert*, 1 Jac. & Walk. 180; *Fraham v. Howes*, 1 Jac. & Walker, 296. And in all such cases it would seem, that the comity of nations is carried so far, that the public functionaries will not only suffer the commission to be executed by the commissioners to whom it is sent, but if necessary, will compel a witness to appear and testify, so that his deposition may be taken, and returned to the tribunal of the foreign nation whence the commission emanated. *Young v. Cassa*, 3 Eccle. Rep. 417; *Mitchell v. Smith*, 1 Paige, 287; *Mitf. Plea*. 186, notes.

The tribunals of this State have often found it necessary to ask the assistance of the judicial power of the other States of our Union or of foreign countries to procure testimony or obtain the means of administering justice. And in doing so those Courts