

account of the rents and profits, is all that remains of this case; and, consequently, no testimony ought now to be taken which is not, in some way, pertinent to that matter.

In the argument, it was mainly urged, on the part of this defendant, that these interrogatories went to discredit the testimony he had consented to give, at the instance of the plaintiffs, in September last; and that having been made a witness by the plaintiffs on their own behalf, they could not now discredit their own witness. And, in the next place, that the testimony called for by the interrogatories, was improper and irrelevant.

I have never before been called on to decide upon any such objections; nor have I met with any case where similar objections have been made by a party, to the further progress of the examination of witnesses, either in the English books, or among the records of this Court. Yet, from the manner in which this case has been treated, the right to have the responses to the interrogatories withheld, until such objections, made by a party to the suit, could be decided on by the Court, seems to have been conceded on all hands. Nothing was said about the right of a party to make such objections; or as to their effect when made; or as to the time and manner in which they were to be brought before the Court and determined. And yet these are matters, which certainly ought not to be overlooked in a case of the very first impression. The determination called for, it is evident, must be of great importance, as regards the course, and practice of this Court. Looking to those consequences, I deemed it proper to hold the matter under advisement until I could bestow upon it a careful consideration.

The mode of bringing testimony into a Court of Chancery, differs from that by which it is brought into a Court of common law; and the manner of collecting proofs in the Maryland Court of Chancery is, in many respects, different from that pursued by the English Court. But the object in all is, or should be, to arrive at the truth, with the least possible expense and delay; and, consequently, all the established forms of judicial proceeding, in relation to this subject, should be made to bend in subservience to this great object. When an issue, as to any matter of fact, has been made up in Chancery, a commission may be obtained to collect proofs in \* relation to it. The mode of obtaining such a commission, and of selecting the commissioners, to whom it is to be directed, are, in some particulars, different, in England, from those which, by usage, the rules of the Court, and legislative enactments, have been prescribed for attaining the same objects here. All which may, however, be passed over as unimportant as regards the matter now under consideration. **185**

In England, the interrogatories, intended to be propounded to the witnesses, must accompany the commission, or be handed to the commissioners before they actually begin to execute it. *Forum*