

of the peace, I am aware that there has been some doubt and difference of opinion as to the mode of requiring a witness to attend and testify in such cases; but nevertheless a witness has been compelled to attend before a justice of the peace and to have his deposition taken in a case depending in this Court, under an order giving the justice authority thus to act as a commissioner. *Onion v. McComas*, ante, 83; *Purviance v. Ogden*, *Chancery Proceedings*, 1804, fol. 49. Of late years there have been a great multitude of instances of such orders; and the convenience and economy of taking testimony in that mode has been felt to a great extent. It has, in my time, given rise to no complaint; and it has been sanctioned and approved by a wide range of experience. *Townshend v. Duncan*, ante, 81. I therefore feel myself authorized to place it upon a footing, in all respects, with the mode of taking testimony under a regular commission. And, consequently, whether the order, under which this testimony is proposed to be taken, be considered as amounting to, or in fact as a commission directed to the officers of the Court; or as analogous to an examination before the auditor, under a decree or order to account; or as being nothing more than an order authorizing a justice of the peace to take testimony, I shall sanction, aid, and protect the proceedings under them, in like manner as if the authority had been conferred by a regular commission. *Wardel v. Dent*, 1 *Dick.* 334; *Hennegal v. Erance*, 12 *Ves.* 201; *Bradshaw v. Bradshaw*, 5 *Cond. Chan. Rep.* 122; *Bryson v. Petty*, 1 *Bland*, 182, note; *Forum Rom.* 118; 1 *Harr. Prac. Chan.* 447. A late Act of Assembly affirms the power of this Court to enforce the attendance of witnesses before commissioners, or the auditor; and gives a new and additional mode of compelling the witness to attend, 1824, *ch.* 133, 197 which, in \* some respects, is not so clear, or so energetic as the ancient course of proceeding.

Whereupon it is ordered, that the time allowed for taking testimony under the order of the 21st of February last be, and the same is hereby enlarged; provided, that the testimony so taken be returned and filed in the Chancery office, on or before the 19th inst. And it is further ordered, that the said objection of the said witness, and also those of the defendant, John Diffenderffer, be, and the same are hereby, overruled; and the said witnesses are hereby required to answer forthwith and fully to the said interrogatories propounded to them, or either of them.

Under this order, the witnesses were again called before the commissioners, and answered the interrogatories. And extracts from the books of the Mechanics Bank, of the account of the defendant, John Diffenderffer, were produced as required; all which were returned by the commissioners on the 10th of June, 1829.