The defendant Elizabeth, put in her answer, therewith filed, as an exhibit, the original bond of conveyance; the other defendants also filed their answers; to all which the plaintiff put in a general replication. Whereupon a commission was issued to the commissioners in Baltimore to take testimony.

After which the plaintiff, by his petition prayed, that, for the better proof of his bill, and that he might be the better able to substantiate his claim therein set forth, the register might be ordered to deliver to him the said original bond of conveyance.

BLAND, C., 23d November, 1829.—According to the rule and the general practice of the Court, each party is entitled, as of course, without any special order for that purpose, to withdraw from the files any writing or document which he himself has placed there, or of which he may have made an exhibit and filed with his bill or answer, in order to have it proved under a commission to take testimony. Upon the ground, that each party may be safely entrusted in withdrawing and taking care of any documentary evidence which he had previously brought in as necessary to the support of his claim or defence; and which had not been ordered into Court for safe custody; *Webb* v. *Lord Lymington*, 1 *Eden*, 8; or where it did not appear, from the peculiar nature of the case, that the Court should have the power of so dealing with the instrument as to be reasonably sure of having it produced upon all occasions where its production might be necessary. *Franklin* v. *Hamden*, 1 *Vern.* 66; *Beckford* v. *Wildman*, 16 *Ves.* 438. But the Chancellor cannot order a record, such as a bill, answer or deposition, out of the possession of the proper officer of the Court, except in some very peculiar cases. *Anonymous*, 1 *Ves. Jun.* 152; *Fauquier* v. *Tynte*, 7 *Ves.* 292.

Here, however, it appears, that the document called for by this plaintiff, has been exhibited by the defendants, as the instrument of writing given by him to the vendee, under whom they claim, and as the principal or only muniment of their title. The plaintiff, therefore, can have no occasion to have it authenticated; for having been thus admitted by the defendants it may be read against them by the plaintiff without proof; *Cox* v. *Allingham*, 4 *Cond. Chan. Rep.* 160; nor is this a case in which * he can, upon any ground, claim to have it taken from the file, and committed to his custody, for any purpose whatever. *Graves* v. *Budgel*, 1 *Atk.* 444; *Harris* v. *Bodenham*, 1 *Cond. Chan. Rep.* 143.

252

It is, therefore, ordered, that the said petition be dismissed with costs.

The commissioners of Baltimore to whom the commission to take evidence had been issued, upon the application of the plaintiff, issued a summons in the following words: