

are to keep close and private until publication. But if the witnesses reside more than twenty miles from the place where the Court is held, then a commission issues to certain commissioners, nominated by the parties, who are authorized and directed, to take the depositions of such witnesses in private; which are returned and kept secret, until an order of publication is passed. The examination of witnesses was originally in Chancery before the master of the rolls, who was one of the Judges of the Court; and therefore, such examinations now by a master, by an examiner, or by commissioners, must be considered as a delegation, by the Court, of a part of its authority to them. *Forum Rom.* 124; 1 *Harr. Prac. Chan.* 430, 482.

58 * Considering the nature of the office and duty of a master in Chancery, and recollecting, that the practice and course of proceeding of the Court of Chancery of England had been generally adopted and followed by the Court of Chancery of Maryland; *Riuggold's Case*, 1 *Bland*, 18; 2 *Bozm. Hist. Md.* 131; it could not be deemed altogether unsafe, at once, to assume, that all the powers and duties of a master in Chancery in England, so far as they were, in any way, subservient to the proper exercise of this Court's jurisdiction, as a Court of equity, had devolved upon, and did now, in fact, belong to the auditor of this Court. For, whatever may be his appellation or denomination, it is obvious, that the assistance of an officer, invested with authority to collect testimony, to make investigations, calculations and statements of accounts, and to put in order the various materials, of which complex cases in equity are composed, is as indispensably necessary to the cheap and expeditious administration of justice by a Court of Chancery, as that of an examiner, or of commissioners clothed with no other authority, than that of taking and returning the depositions of witnesses.

It appears, that until some time after the year 1699, when the seat of government was removed to Annapolis, the High Court of Chancery, which was directed to be held at the same place, 1699, ch. 19, was constituted of a plurality of Judges; most or all of whom, certainly the Chancellor, were members of the Court of Appeals, the tribunal of the last resort of the Province; *The Chancellor's Case*, 1 *Bland*, 624; (*f*) and consequently as the two

(*f*) "At a Court held for the Chancery and Provincial Court, begun on Tuesday, the 30th day of December, in the 39th year of the Dominion of Cæcilius, absolute Lord and Proprietary of the Province of Maryland and Avalon, &c. *annoque Dom.* 1670, and continued till the 17th, was present: the Right Hon. Charles Calvert, Esq. Lieutenant-General and Chief Judge in equity; the Hon. Philip Calvert, Esq. Chancellor; William Talbot, Esq. secretary; William Calvert; Baker Brooks, Thomas Trueman, and Samuel Chew, Esq's. This day the Hon. William Talbot, Esq. principal secretary, was sworn one of the Justices of the Provincial Court and Chancery, and