

before a master in England, or as formerly here, under an ordinary commission to examine evidences; but always, as now, after notice to the parties, the witnesses were examined publicly in the presence of the parties, if they chose to attend. And testimony might be so taken after publication had passed, as to the depositions of witnesses taken under an ordinary commission. (o) It appears to have

(o) WOODWARD v. CHAPMAN.—This bill was filed, on the 4th of December, 1742, by Henry Woodward, an infant, by Edward Dorsey, his guardian, and Mary, Elizabeth, and Eleanor Woodward, infants, by Richard Dorsey, their next friend, against Levin Gale and William Chapman. The bill stated, that the plaintiff's father, Amos Woodward, died on the 16th of March, 1734, intestate, leaving a very large personal estate, consisting of negroes, ready money, plate, rings, a sea vessel, which had after his death, being sent to Barbadoes, brought a return cargo of rum, &c. Besides which, the intestate had left *choses in action*, and other goods and chattels of very considerable value, sufficient to pay all his debts, with a great surplus. That administration of the intestate's estate, had been granted to his widow, Achsa Woodward, the mother of the plaintiffs: that the negroes, belonging to the estate of the intestate, Amos, the year he died, made a large crop of corn, tobacco, and other things: which the administratrix, Achsa, never accounted for: but converted to her own use: that she, accordingly, had taken possession of the intestate's estate, and returned an inventory and list of debts, to the commissary's office, in which she failed to include many articles of property of great value, and several good debts due to the intestate, and had sold seven of the negroes belonging to the estate of the intestate. That she had afterwards intermarried with Edward Fottrell, who, although he had notice of the omissions in the inventory and return of the said Achsa, had failed to make any return thereof, as he ought to have done. That the said Achsa died in February, 1742, intestate; and afterwards, in the same month, the said Edward died, having previously by his will appointed Bazil Dorsey and Alexander Lawson his executors, who, having refused to act as such administration, with the will of the said Edward annexed, had been granted to these defendants; and that letters of administration *de bonis non*, of the intestate Amos; and of administration of the intestate Achsa, had been also granted to these defendants. That the plaintiffs had been put to school a very little time, and had no other means to defray the expense of their schooling and maintenance. And that the defendants had sold the greater part of the negroes belonging to the estate of the intestate Amos. Whereupon it was prayed, that the defendants should be compelled to make up a full account of the estates of the intestates Amos and Achsa, and deliver to the plaintiffs their distributive part thereof; and in the meantime to give and allow to the plaintiffs a maintenance and education according to the interest and profits of their estate; and that they might be relieved in all and singular the premises.

The defendant Chapman by his answer admitted the death of Amos Woodward; that the plaintiffs were his children; that administration had been granted, as stated in the bill, to Achsa, her marriage, and the death of her and her husband Fottrell; and the administration granted on their estates to these defendants: but denied, that any administration *de bonis non* had ever been granted, as charged, on the estate of the intestate Amos. This defendant denied that there was any crop begun and growing on the plantation of the intestate Amos, at the time of his death: and further, that this defendant