

required to put in security for costs. (j) By laws, passed since the revolution, it is declared, that in all suits brought by persons not resident of the State, or who may remove out of it, after the commencement of the action, the defendant may lay a rule, at or before the trial court, on the plaintiff to give security for costs; upon the failure to comply with which he may be nonsuited. (k) It is evident from these and other legislative enactments, that the rule security for costs as against nonresident, and in some instances against resident plaintiffs, was frequently resorted to in our courts of common law from a very early period. (l)

Soon after the chancellorship had become active and important as a *judicial* office in England, it was declared by a statute passed in the year 1393, that the Chancellor, upon any suggestion being found untrue, should have the power to award damages according to his discretion to him who had been so unduly troubled. This statute is said to be the foundation of the authority by which costs in chancery are given in England; and according to which it has been the practice in the Province and State of Maryland, and still continues to be, to give costs in all cases, except only in so far as it has been modified and controlled by the constitution and the acts of Assembly regulating officers' fees. (m) In the year 1436, to prevent the vexatious institution of suits in chancery in England for matters determinable by the common law, it was declared by statute, that no *subpœna* should be granted until security was given to satisfy the party grieved for his damages and expenses if the matter of the bill should not be made good. (n) This legislative enactment required a plaintiff in chancery in all cases to give security for costs. It is said, however, that this law has by degrees gone out of use or altogether vanished; and that an entirely different

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(j) 1715, ch. 29; 1729, ch. 20, s. 2.—(k) 1796, ch. 43, s. 12; 1801, ch. 74, s. 9. (l) 1768, ch. 29, s. 24; 1794, ch. 54, s. 10; 2 Harr. Ent. 51, 118, 617.—(m) 17 Rich. 2, c. 6; Park. His. Co. Chan. 35; 2 Mad. Chan. 543; Kilty's Rep. 224; Declaration Rights, art. 30; 1779, ch. 25; 1826, ch. 247.

"December, 1670, *Ordered*, that upon all rehearings and dismissions the costs paid before rehearing of the business to the defendant, if the business go for the plaintiff, the defendant to pay back the said costs again to the plaintiff; and this order to be observed for the future in this court."

"*Ordered* also, that the register take fees in this court as the officers of this court in England, having one penny sterling for every pound of tobacco; and that he compute fifteen lines to be a sheet, and seven or eight words in each line; and that for every such sheet writing, engrossing, copying, or enrolling, he charge but eight pounds of tobacco, or eight pence sterling."—*Chan. Proc. lib. C. D. fol. 42.*

(n) 15 Hen. 6, c. 4.