

and appears to have been at all times, and very commonly resorted to since the revolution; (l) and the court has gone so far as to compel a witness to submit to an examination before a justice of the peace, where testimony had been directed by an order to be so taken. (m) This mode of collecting testimony, it is believed, is

usual in such cases. The said account to be returned to this court for further order, and subject to the exceptions of either party. The Chancellor has to remark, that the taking of further evidence by the auditor, after the decree to account, appeared to be the practice; and has so continued since his coming into office. M. S.

(l) *The State v. Brooke*, ante 42 note.—*COCKEY v. CHAPMAN*, 10th February, 1729, Injunction bill; answer filed; motion to dissolve the injunction this court; ruled motion to dissolve the injunction 21st February; on motion of the defendant's counsel, and hearing what was alleged by the counsel of both sides, ruled that injunction be dissolved.

After which, the plaintiff by his petition stated, that his injunction had been dissolved, as he understood, upon the ground, that he had not paid certain fees to the sheriff, &c. Whereupon he prayed, that another injunction to stay execution against him, upon his giving security to pay the execution fee in case the court, at the hearing, should decree the same to be due.

16th March, 1729.—*CALVERT, Chancellor*.—Having heard the arguments of both parties, in relation to the subject matter of this petition, it is *Ordered*, that the hearing of the cause between Chapman and Cockey be on the 11th of April next, being the Saturday before the assizes in Anne Arundel county. And that any depositions taken before Mr. Beale, or any other magistrate of the city of Annapolis, in relation to this cause, be allowed as evidence upon the hearing. It is further *Ordered*, that injunction issue in the mean time, upon giving security. And, in case any execution is issued and executed, the goods to be stayed in the sheriff's hands till hearing the cause.

Injunction issued accordingly. After which, the plaintiff filed his bill, setting forth his case in due form and at large. To which bill the defendant put in his answer; and the case was thus brought before the court on bill and answer alone, on the day appointed.

11th April, 1730.—*CALVERT, Chancellor*.—*Decreed*, that the injunction prayed for in the bill, be perpetual. And it is further *Ordered*, that the sheriff of Anne Arundel county, restore to the complainant the negroes taken from him in execution. *Chancery Proceedings, lib. J. R. No. 2, fol. 13, 16, 24.*

(m) *ONION v. MCCOMAS*.—This bill was filed on the 17th of November, 1800, by John B. Onion, against William McComas and Thomas R. Smith, to obtain an injunction to stay proceedings at law, on a judgment rendered in favour of the defendant McComas, for the use of the defendant Smith, on a bond as assignee thereof from the defendant McComas, against the plaintiff; and for general relief, &c. The injunction was granted as prayed; and the defendant McComas having put in his answer, and given notice of a motion to dissolve the injunction, the matter was accordingly brought before the court.

2d February, 1802.—*HANSON, Chancellor*.—The motion to dissolve the injunction in this cause issued, being submitted, the bill and the answer of McComas, and the exhibits referred to, as parts of the bill and answer, were by the Chancellor read and considered.