

THE FIRST CENTURY OF THE COURT OF CHANCERY OF MARYLAND.

THE EDITOR.

The right to administer justice and to establish such courts as he deemed necessary for its administration, was conferred upon the Lord Proprietary of Maryland by the Charter given him in 1632 by Charles I. This authority was conferred not only by the clauses which specifically gave him power to appoint judges and to administer justice within his Province, but also under the still broader authority in the same instrument conferring upon him all the rights and powers enjoyed by the Bishop of Durham in his Palatinate of Durham. The section conferring this authority reads as follows: "all and singular such and as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, and royal rights and temporal franchises whatsoever, as well by seas as by land * * * to be had, exercised, used, and enjoyed, as any Bishop of Durham, within the Bishoprick or county of Durham, * * * ever heretofore hath had, held, used, or enjoyed, or, of right, could or ought to have, hold, use, or enjoy". More specifically the Proprietary and his heirs were granted the right to "make laws and to constitute and ordain judges, justices, magistrates and officers of what kind, for what cause, and with what power soever, within that land and the sea of those parts, and in such form as to the said now Baron of Baltimore or his heirs shall seem most fitting, and also to remit, reprieve, pardon, and abolish all crimes and offences whatsoever against such laws * * * and, by judges by them delegated, to award process, hold pleas, and determine in those courts, praetorian judicatories, and tribunals, in all actions, suits, causes, and matters whatsoever, as well as criminal as personal, real and mixed praetorian".

The editor has elsewhere traced in some detail the original development of the Provincial Court as the general law court of the Province, and made brief reference there to the Court of Chancery (*Arch. Md.*, xlix; pp. iii-xvi). Both of these courts were in their earlier development identical in personnel with the Governor and Council, and for the first sixty years after the settlement in 1634, the Governor ordinarily presided in each court, and the associate justices of both courts were the members of the Council.

The Chancellor in Maryland until nearly a century after the settlement, did not possess the broad judicial "one-man" powers of the Chancellor of England. During this time the office of Chancellor was usually combined with that of Governor, but the offices were several times separated, as when Philip Calvert was Chancellor, but not Governor, from 1661 to 1682, and again on several other occasions prior to 1725. Until the last decade of the seventeenth century the Chancellor, unless he were Governor, did not even preside in his own court, the Governor doing so under the title of "Chief Judge in Equity." Although during this period the judicial powers of the Chancellor were overshadowed by