

A salary, just in amount, shall be secured to the Chancellor during the continuance of his commission, it is said, "in such

in 1768,) the governor, or the governor and council are the chancellor, or judges of the court of chancery. But so long as I understand that the governor is, by his general instruction, upon sound principles of policy and justice, restrained from exercising the office of judge or justice in his own person, I own I always considered the governor, taking up the office of chancellor, as a case labouring with inexplicable difficulties. How unfit are governors in general for this high office of law; and how improper is it that governors should be judges, where perhaps the consequence of the judgment may involve government, and the administration thereof, in the contentions of parties. Indeed the fact is, that the general diffidence of the wisdom of this court thus constituted, the apprehension that reasons of government may mix in with the grounds of the judgment, has had an effect that the coming to this court is avoided as much as possible, so that it is almost in disuse, even where the establishment of it is allowed. But in the charter governments, (New England and Pennsylvania,) they have no chancery at all." "This introduced a practice, (in New England,) of petitioning the legislative courts for relief, and prompted those courts to interpose their authority. These petitions becoming numerous, in order to give the greater despatch to such business, the legislative courts transacted such business by orders or resolves, without the solemnity of passing acts for such purposes; and have further extended this power by resolves and orders, beyond what a court of chancery ever attempted to decree, even to the suspending of public laws, which orders or resolves are not sent home for the royal assent."—(*Pown. Adm. Colo.* 110; *See Constitution of New Jersey, art. 8.*)

Upon a complaint made, on the 6th of November 1735 to the General Assembly of New York, they, among other things, resolved, "that a court of chancery, in this province, in the hands or under the exercise of a governor, without consent in General Assembly, is contrary to law, unwarrantable, and of dangerous consequence to the liberties and properties of the people."—(1 *Smith's His. N. York*, 386.)

Under the proprietary government of Maryland the chancellor of the province was sometimes constituted by a formal commission from the Lord Proprietary; (*Chan. Proc. lib. P. L. fol. 488, 717.*) but most usually, as it would seem, by a delivery of the great seal by the Lord Proprietary in person, or by, or in the presence of the council. The governor for the time being was, in several instances, by the same commission also constituted chancellor and keeper of the great seal of the Province. The first provincial governor, by his commission bearing date on the 15th of April 1637, was constituted governor, lieutenant general, chief captain, and commander, as well by sea as by land, and also *chancellor*, chief justice, and chief magistrate within the province, (1 *Boz. His. Mary.* 291.) A similar commission was granted by the Lord Proprietary on the 18th of September 1644. (*Land Records, lib. 1, folio 195.*)

But although for some time after the settlement of the country, the governor was invested with a variety of military and civil offices, yet he was not permitted to act of himself in all respects and alone in any one of them. As governor there were few powers which he could exercise without the advice and consent of the council who were placed about him; and as chancellor he could do no act but as a court sitting with his assistants. (1 *H. & McH.* 6 & 165; 4 *H. & McH.* 477.) In a petition in the case of Nicholas Painter and wife against Samuel Lane in chancery addressed to the Lord Proprietary in June 1631 it is said, "that the court of chancery is and ought to be always open as to the proceedings therein; but your lordship