

ed as a question of fact: but if, directly or indirectly, I should be asked how I should decide in such or such a case, the question cannot be considered otherwise than as improper.

Perhaps this is the first instance, in this state, in which a judge has been called on to answer interrogatories relative to the law, usage, or practice in his court prevailing. The land office indeed may not be considered as a court of record, because the chancellor, the judge, has not there a power of fine and imprisonment; but what of that?—

I must regret that being suddenly called on, and engaged in other affairs, I consented without hesitation or reflection, to appear as a witness, and that having so consented I did not reflect on, or sufficiently enquire, respecting the nature of the evidence to be given. However, I trust that my answers have given a just account, but still I beg leave to remark that neither the counsel ought to have requested me to answer as a witness, nor ought the court to have permitted me to appear as a witness, nor ought I to have consented to appear as a witness, unless required, like any other witness, to answer *viva voce*, respecting mere matters of fact.

A witness in a court of law is called upon to testify only with respect to a matter of fact: I know of no instance where he is called on to testify as to a point of law. No man is called on to tell the jury on oath what is the law of the land. If he were, the chancellor might with propriety, instead of referring to the court in the usual way, questions of law, have the judges of the general court summoned as witnesses. In a variety of causes he might do this.

The consent of parties may cure errors between themselves, but cannot alter the law with respect to other persons. Whether the agreement of the parties by their counsel, has rendered my testimony, which now I do not wish to withhold, proper for the jury, and whether there has been such an agreement; and how far, with or without an agreement, my testimony is to prevail, is to be determined by the court. I think proper, on the reflexions which in the course of a few hours I have made, to protest against any right which parties or counsel may hereafter claim of compelling the chancellor to appear as a witness, and to declare what in his opinion is the law, usage, or practice of the land office, or what, on such or such an occasion he would consider as the law &c. And I flatter myself that on reflexion the court will consider me as justified in making the protest.

(Signed)

A. C. HANSON, *Chancellor.*